

AMENDED IN ASSEMBLY AUGUST 8, 2024

AMENDED IN SENATE APRIL 16, 2024

SENATE BILL

No. 1518

**Introduced by Committee on Public Safety (Senators
Wahab (Chair), Bradford, Seyarto, Skinner, and Wiener)**

March 4, 2024

An act to amend Section 6228 of the Family Code, to amend Section 226.8 of the Labor Code, to amend Sections 679.027, 745, 1203.4b, 1370, 1473, 2620, 3058.65, ~~5003~~, 11226, 13511.5, and 13519.6 of, and to repeal Section 1463.5 of, the Penal Code, and to amend Section 11500 of the Vehicle Code, relating to public safety.

LEGISLATIVE COUNSEL'S DIGEST

SB 1518, as amended, Committee on Public Safety. Public safety omnibus.

(1) Existing law requires law enforcement agencies to provide victims with specified information about victims' rights and resources.

This bill would fix an erroneous cross-reference in these provisions.

(2) Existing law requires state and local law enforcement agencies to provide, upon request and without charging a fee, one copy of all incident report face sheets, one copy of all incident reports, or both, to a victim, or the representative of a victim, of domestic violence, sexual assault, stalking, human trafficking, or abuse of an elder or dependent adult, as specified.

This bill would update cross-references in these provisions.

(3) Existing law prohibits any person or employer from engaging in willful misclassification, as defined, of an individual as an independent contractor instead of an employee and in specified acts relating to the misclassified individual's compensation. Existing law authorizes a

public prosecutor, as defined, to enforce these provisions through specified methods.

This bill would fix an erroneous cross-reference in these provisions.

(4) Under existing law, an incarcerated person who successfully participates as an incarcerated hand crew member in the California Conservation Camp program or in a county incarcerated hand crew, or participates at a Department of Corrections and Rehabilitation institutional firehouse is, upon release, eligible for record expungement, as specified.

This bill would specify that participation in an institutional firehouse must also be successful, as specified, to be qualifying. The bill would make other nonsubstantive clarifying changes to this provision.

(5) Existing law prohibits a person from being tried for a criminal offense while they are mentally incompetent. Existing law prescribes the procedure for a person found to be mentally incompetent to be restored to competence.

This bill would correct erroneous cross-references in these provisions and make other technical corrections.

(6) Existing law allows a person who is unlawfully imprisoned or restrained of their liberty to prosecute a writ of habeas corpus to inquire into the cause of their imprisonment or restraint. Existing law prohibits the state from seeking a criminal conviction or sentence on the basis of race, ethnicity, or national origin. Existing law authorizes a defendant to file a motion in the trial court or, if judgment has been imposed, to file a petition for writ of habeas corpus to allege a violation of this prohibition.

This bill would fix an erroneous cross-reference in these provisions.

(7) Existing law establishes the Trial Court Trust Fund, the proceeds of which are apportioned to fund trial court operations, as well as providing for the direct payment or reimbursement of the actual costs of operating one or more trial courts upon the authorization of the participating courts.

This bill would repeal an obsolete provision describing disbursements to the Trial Court Trust Fund.

~~(8) Existing law establishes the Department of Corrections and Rehabilitation to, among other duties, administer the operations of numerous state prison facilities. Existing law sets forth the procedure to obtain, and the contents of, an order to have a person imprisoned in a state prison brought before any court for specified proceedings.~~

This bill would make technical changes to these provisions.

(9) Existing law authorizes a district attorney, city attorney, or citizen, as specified, to maintain an action to abate and prevent the nuisance and perpetually to enjoin the person conducting or maintaining it, and the owner, lessee, or agent of the building or place in or upon which the nuisance exists from directly or indirectly maintaining or permitting the nuisance.

This bill would remove an obsolete cross-reference and make other technical changes.

(10) Existing law requires every peace officer to have satisfactorily completed an introductory training course prescribed by the Commission on Peace Officer Standards and Training. Existing law requires each applicant for admission to a basic course of training certified by the commission that includes the carrying and use of firearms, who is not sponsored by a local or other law enforcement agency, or is not a peace officer, to submit written certification from the Department of Justice that the applicant has no criminal history background that would disqualify them from possessing a firearm.

The bill would instead require the submission of a written certification that they are eligible to possess, receive, own, and purchase a firearm pursuant to state and federal law.

(11) Existing law defines a “hate crime” as a criminal act committed, in whole or in part, because of actual or perceived characteristics of the victim, including, among other things, race, religion, disability, and sexual orientation. Existing law requires each state and local law enforcement agency to adopt a hate crime policy, as specified.

This bill would revise references to “anti-Arab/Middle Eastern” hate crimes to “anti-Arab” and “anti-Middle Eastern.”

(12) Existing law makes it a crime for a person to act as an automobile dismantler without having an established place of business, meeting specified requirements, and having a current, valid license or temporary permit issued by the Department of Motor Vehicles. Existing law makes it a crime to possess 9 or more catalytic converters, as specified, without a valid license or temporary permit to operate as an automobile dismantler. Existing law makes the first violation punishable as an infraction and subsequent violations punishable as a misdemeanor, except that existing law does not specify the nature of a 4th or subsequent violation.

This bill would specify that a 4th or subsequent violation of the above-described provisions is a misdemeanor.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 6228 of the Family Code is amended to
2 read:
3 6228. (a) State and local law enforcement agencies shall
4 provide, upon request and without charging a fee, one copy of all
5 incident report face sheets, one copy of all incident reports, a copy
6 of any accompanying or related photographs of a victim's injuries,
7 property damage, or any other photographs that are noted in the
8 incident report, and a copy of 911 recordings, if any, to a victim,
9 or the victim's representative as defined in subdivision (g), of a
10 crime that constitutes an act of any of the following:
11 (1) Domestic violence, as defined in Section 6211.
12 (2) Sexual assault, as defined in Sections 261, 261.5, 265, 266,
13 266a, 266b, 266c, 266g, 266j, 267, 269, 273.4, 285, 286, 287, 288,
14 288.5, 289, or 311.4 of, or former Section 262 or 288a of, the Penal
15 Code.
16 (3) Stalking, as defined in Section 1708.7 of the Civil Code or
17 Section 646.9 of the Penal Code.
18 (4) Human trafficking, as defined in Section 236.1 of the Penal
19 Code.
20 (5) Abuse of an elder or a dependent adult, as defined in Section
21 15610.07 of the Welfare and Institutions Code.
22 (b) (1) A copy of an incident report face sheet shall be made
23 available during regular business hours to a victim or the victim's
24 representative no later than 48 hours after being requested, unless
25 the state or local law enforcement agency informs the victim or
26 the victim's representative of the reasons why, for good cause, the
27 incident report face sheet is not available, in which case the incident
28 report face sheet shall be made available no later than five working
29 days after the request is made.
30 (2) A copy of the incident report, any accompanying or related
31 photographs of a victim's injuries, property damage, or any other
32 photographs that are noted in the incident report, and a copy of
33 911 recordings, if any, shall be made available during regular
34 business hours to a victim or the victim's representative no later
35 than five working days after being requested, unless the state or

1 local law enforcement agency informs the victim or the victim's
2 representative of the reasons why, for good cause, the items are
3 not available, in which case the items shall be made available no
4 later than 10 working days after the request is made.

5 (c) A person requesting copies under this section shall present
6 state or local law enforcement with the person's identification,
7 including a current, valid driver's license, a state-issued
8 identification card, or a passport. If the person is a representative
9 of the victim and the victim is deceased, the representative shall
10 also present a certified copy of the death certificate or other
11 satisfactory evidence of the death of the victim at the time a request
12 is made. If the person is a representative of the victim and the
13 victim is alive and not the subject of a conservatorship, the
14 representative shall also present a written authorization, signed by
15 the victim, making the person the victim's personal representative.

16 (d) This section shall apply to requests for domestic violence,
17 sexual assault, stalking, human trafficking, or abuse of an elder or
18 a dependent adult face sheets or incident reports, photographs, 911
19 recordings, and evidence made within five years from the date of
20 completion of the incident report.

21 (e) This section shall be known and may be cited as the Access
22 to Domestic Violence Reports Act of 1999.

23 (f) For purposes of this section, "victim" includes a minor who
24 is 12 years of age or older.

25 (g) (1) For purposes of this section, if the victim is deceased,
26 a "representative of the victim" means any of the following:

27 (A) The surviving spouse.

28 (B) A surviving child of the decedent who has attained 18 years
29 of age.

30 (C) A domestic partner, as defined in subdivision (a) of Section
31 297.

32 (D) A surviving parent of the decedent.

33 (E) A surviving adult relative.

34 (F) The personal representative of the victim, as defined in
35 Section 58 of the Probate Code, if one is appointed.

36 (G) The public administrator if one has been appointed.

37 (2) For purposes of this section, if the victim is not deceased, a
38 "representative of the victim" means any of the following:

39 (A) A parent, guardian, or adult child of the victim, or an adult
40 sibling of a victim 12 years of age or older, who shall present to

1 law enforcement identification pursuant to subdivision (c). A
2 guardian shall also present to law enforcement a copy of the letters
3 of guardianship demonstrating that the person is the appointed
4 guardian of the victim.

5 (B) An attorney for the victim, who shall present to law
6 enforcement identification pursuant to subdivision (c) and written
7 proof that the person is the attorney for the victim.

8 (C) A conservator of the victim who shall present to law
9 enforcement identification pursuant to subdivision (c) and a copy
10 of the letters of conservatorship demonstrating that the person is
11 the appointed conservator of the victim.

12 (3) A representative of the victim does not include any person
13 who has been convicted of murder in the first degree, as defined
14 in Section 189 of the Penal Code, of the victim, or any person
15 identified in the incident report face sheet as a suspect.

16 SEC. 2. Section 226.8 of the Labor Code is amended to read:

17 226.8. (a) It is unlawful for any person or employer to engage
18 in any of the following activities:

19 (1) Willful misclassification of an individual as an independent
20 contractor.

21 (2) Charging an individual who has been willfully misclassified
22 as an independent contractor a fee, or making any deductions from
23 compensation, for any purpose, including for goods, materials,
24 space rental, services, government licenses, repairs, equipment
25 maintenance, or fines arising from the individual's employment
26 where any of the acts described in this paragraph would have
27 violated the law if the individual had not been misclassified.

28 (b) If the Labor and Workforce Development Agency or a court
29 issues a determination that a person or employer has engaged in
30 any of the enumerated violations of subdivision (a), the person or
31 employer shall be subject to a civil penalty of not less than five
32 thousand dollars (\$5,000) and not more than fifteen thousand
33 dollars (\$15,000) for each violation, in addition to any other
34 penalties or fines permitted by law.

35 (c) If the Labor and Workforce Development Agency or a court
36 issues a determination that a person or employer has engaged in
37 any of the enumerated violations of subdivision (a) and the person
38 or employer has engaged in or is engaging in a pattern or practice
39 of these violations, the person or employer shall be subject to a
40 civil penalty of not less than ten thousand dollars (\$10,000) and

1 not more than twenty-five thousand dollars (\$25,000) for each
2 violation, in addition to any other penalties or fines permitted by
3 law.

4 (d) (1) If the Labor and Workforce Development Agency or a
5 court issues a determination that a person or employer that is a
6 licensed contractor pursuant to the Contractors' State License Law
7 has violated subdivision (a), the agency, in addition to any other
8 remedy that has been ordered, shall transmit a certified copy of
9 the order to the Contractors' State License Board.

10 (2) The registrar of the Contractors' State License Board shall
11 initiate disciplinary action against a licensee within 30 days of
12 receiving a certified copy of an agency or court order that resulted
13 in disbarment pursuant to paragraph (1).

14 (e) If the Labor and Workforce Development Agency or a court
15 issues a determination that a person or employer has violated
16 subdivision (a), the agency or court, in addition to any other remedy
17 that has been ordered, shall order the person or employer to display
18 prominently on its internet website, in an area which is accessible
19 to all employees and the general public, or, if the person or
20 employer does not have an internet website, to display prominently
21 in an area that is accessible to all employees and the general public
22 at each location where a violation of subdivision (a) occurred, a
23 notice that sets forth all of the following:

24 (1) That the Labor and Workforce Development Agency or a
25 court, as applicable, has found that the person or employer has
26 committed a serious violation of the law by engaging in the willful
27 misclassification of employees.

28 (2) That the person or employer has changed its business
29 practices in order to avoid committing further violations of this
30 section.

31 (3) That any employee who believes that they are being
32 misclassified as an independent contractor may contact the Labor
33 and Workforce Development Agency. The notice shall include the
34 mailing address, email address, and telephone number of the
35 agency.

36 (4) That the notice is being posted pursuant to a state order.

37 (f) In addition to including the information specified in
38 subdivision (e), a person or employer also shall satisfy the
39 following requirements in preparing the notice:

40 (1) An officer shall sign the notice.

1 (2) It shall post the notice for one year commencing with the
2 date of the final decision and order.

3 (g) (1) In accordance with the procedures set forth in Sections
4 98, 98.1, 98.2, 98.3, 98.7, 98.74, or 1197.1, the Labor
5 Commissioner may enforce this section and issue a determination
6 that a person or employer has violated subdivision (a). This
7 enforcement of this section may include investigating an alleged
8 violation of subdivision (a), ordering appropriate temporary relief
9 to mitigate the violation or to maintain the status quo pending the
10 completion of a investigation or hearing, issuance of a citation
11 against an employer who violates subdivision (a), and filing a civil
12 action. If a citation is issued, the procedures for issuing, contesting,
13 and enforcing judgments for citations and civil penalties issued
14 by the Labor Commissioner shall be the same as those set out in
15 Section 98.74 or 1197.1, as appropriate. A public prosecutor, as
16 defined in Section 180, may also enforce this section by seeking
17 the damages described in paragraph (2).

18 (2) In any enforcement pursuant to this subdivision, for each
19 employee subject to Sections 98 to 98.2, inclusive, the Labor
20 Commissioner under Section 98.3, 98.7, 98.74, or 1197.1, or a
21 public prosecutor, as defined in subdivision (a) of Section 180,
22 may alternatively recover the penalties set forth in subdivisions
23 (b) and (c) as damages payable to the employee. An employee is
24 entitled to either recover the damages as provided for in this section
25 or to enforce a civil penalty, as set forth in subdivision (a) of
26 Section 2699, but not both, for the same violation. Except as
27 specified in this section, the remedy provided by this section is
28 cumulative and does not limit the availability of any other remedy
29 available to the employee.

30 (h) Any administrative or civil penalty, damages, or disciplinary
31 action pursuant to this section shall remain in effect against any
32 successor corporation, owner, or business entity that satisfies both
33 of the following:

34 (1) Has one or more of the same principals or officers as the
35 person or employer subject to the penalty or action.

36 (2) Is engaged in the same or a similar business as the person
37 or employer subject to the penalty or action.

38 (i) For purposes of this section, the following definitions apply:

1 (1) “Determination” means an order, decision, award, or citation
2 issued by an agency or a court of competent jurisdiction for which
3 the time to appeal has expired and for which no appeal is pending.

4 (2) “Labor and Workforce Development Agency” means the
5 Labor and Workforce Development Agency or any of its
6 departments, divisions, commissions, boards, or agencies.

7 (3) “Officer” means the chief executive officer, president, any
8 vice president in charge of a principal business unit, division, or
9 function, or any other officer of the corporation who performs a
10 policymaking function. If the employer is a partnership, “officer”
11 means a partner. If the employer is a sole proprietor, “officer”
12 means the owner.

13 (4) “Willful misclassification” means avoiding employee status
14 for an individual by voluntarily and knowingly misclassifying that
15 individual as an independent contractor.

16 (j) Nothing in this section is intended to limit any rights or
17 remedies otherwise available at law.

18 SEC. 3. Section 679.027 of the Penal Code is amended to read:

19 679.027. (a) Every law enforcement agency investigating a
20 criminal act and every agency prosecuting a criminal act shall, as
21 provided herein, at the time of initial contact with a crime victim,
22 during followup investigation, or as soon thereafter as deemed
23 appropriate by investigating officers or prosecuting attorneys,
24 inform each victim, or the victim’s next of kin if the victim is
25 deceased, of the rights they may have under applicable law relating
26 to the victimization, including rights relating to housing,
27 employment, compensation, and immigration relief.

28 (b) (1) Every law enforcement agency investigating a criminal
29 act and every agency prosecuting a criminal act shall, as provided
30 herein, at the time of initial contact with a crime victim, during
31 followup investigation, or as soon thereafter as deemed appropriate
32 by investigating officers or prosecuting attorneys, provide or make
33 available to each victim of the criminal act without charge or cost
34 a “Victim Protections and Resources” card described in paragraph
35 (3).

36 (2) The Victim Protections and Resources card may be designed
37 as part of and included with the “Marsy Rights” card described by
38 Section 679.026.

39 (3) By June 1, 2025, the Attorney General shall design and make
40 available in PDF or other imaging format to every agency listed

1 in paragraph (1) a “Victim Protections and Resources” card, which
2 shall contain information in lay terms about victim rights and
3 resources, including, but not limited to, the following:

4 (A) Information about the rights provided by Sections 230 and
5 230.1 of the Labor Code.

6 (B) Information about the rights provided by Section 1946.7 of
7 the Civil Code.

8 (C) Information about the rights provided by Section 1161.3 of
9 the Code of Civil Procedure, including information in lay terms
10 about which crimes and tenants are eligible and under what
11 circumstances.

12 (D) Information about federal immigration relief available to
13 certain victims of crime.

14 (E) Information about the program established by Chapter 5
15 (commencing with Section 13950) of Part 4 of Division 3 of Title
16 2 of the Government Code, including information about the types
17 of expenses the program may reimburse, eligibility, and how to
18 apply.

19 (F) Information about the program established by Chapter 3.1
20 (commencing with Section 6205) of Division 7 of Title 1 of the
21 Government Code.

22 (G) Information about eligibility for filing a restraining or
23 protective order.

24 (H) Contact information for the Victims’ Legal Resource Center
25 established by Chapter 11 (commencing with Section 13897) of
26 Title 6 of Part 4.

27 (I) A list of trauma recovery centers funded by the state pursuant
28 to Section 13963.1 of the Government Code, with their contact
29 information, which shall be updated annually.

30 (J) The availability of community-based restorative justice
31 programs and processes available to them, including programs
32 serving their community, county, county jails, juvenile detention
33 facilities, and the Department of Corrections and Rehabilitation.

34 (c) This section shall become operative on July 1, 2024, only
35 if General Fund moneys over the multiyear forecasts beginning in
36 the 2024–25 fiscal year are available to support ongoing
37 augmentations and actions, and if an appropriation is made to
38 backfill the Restitution Fund to support the actions in this section.

39 SEC. 4. Section 745 of the Penal Code is amended to read:

1 745. (a) The state shall not seek or obtain a criminal conviction
2 or seek, obtain, or impose a sentence on the basis of race, ethnicity,
3 or national origin. A violation is established if the defendant proves,
4 by a preponderance of the evidence, any of the following:

5 (1) The judge, an attorney in the case, a law enforcement officer
6 involved in the case, an expert witness, or juror exhibited bias or
7 animus towards the defendant because of the defendant's race,
8 ethnicity, or national origin.

9 (2) During the defendant's trial, in court and during the
10 proceedings, the judge, an attorney in the case, a law enforcement
11 officer involved in the case, an expert witness, or juror, used
12 racially discriminatory language about the defendant's race,
13 ethnicity, or national origin, or otherwise exhibited bias or animus
14 towards the defendant because of the defendant's race, ethnicity,
15 or national origin, whether or not purposeful. This paragraph does
16 not apply if the person speaking is relating language used by
17 another that is relevant to the case or if the person speaking is
18 giving a racially neutral and unbiased physical description of the
19 suspect.

20 (3) The defendant was charged or convicted of a more serious
21 offense than defendants of other races, ethnicities, or national
22 origins who have engaged in similar conduct and are similarly
23 situated, and the evidence establishes that the prosecution more
24 frequently sought or obtained convictions for more serious offenses
25 against people who share the defendant's race, ethnicity, or national
26 origin in the county where the convictions were sought or obtained.

27 (4) (A) A longer or more severe sentence was imposed on the
28 defendant than was imposed on other similarly situated individuals
29 convicted of the same offense, and longer or more severe sentences
30 were more frequently imposed for that offense on people that share
31 the defendant's race, ethnicity, or national origin than on
32 defendants of other races, ethnicities, or national origins in the
33 county where the sentence was imposed.

34 (B) A longer or more severe sentence was imposed on the
35 defendant than was imposed on other similarly situated individuals
36 convicted of the same offense, and longer or more severe sentences
37 were more frequently imposed for the same offense on defendants
38 in cases with victims of one race, ethnicity, or national origin than
39 in cases with victims of other races, ethnicities, or national origins,
40 in the county where the sentence was imposed.

1 (b) A defendant may file a motion pursuant to this section, or
2 a petition for writ of habeas corpus or a motion under Section
3 1473.7, in a court of competent jurisdiction, alleging a violation
4 of subdivision (a). For claims based on the trial record, a defendant
5 may raise a claim alleging a violation of subdivision (a) on direct
6 appeal from the conviction or sentence. The defendant may also
7 move to stay the appeal and request remand to the superior court
8 to file a motion pursuant to this section. If the motion is based in
9 whole or in part on conduct or statements by the judge, the judge
10 shall disqualify themselves from any further proceedings under
11 this section.

12 (c) If a motion is filed in the trial court and the defendant makes
13 a prima facie showing of a violation of subdivision (a), the trial
14 court shall hold a hearing. A motion made at trial shall be made
15 as soon as practicable upon the defendant learning of the alleged
16 violation. A motion that is not timely may be deemed waived, in
17 the discretion of the court.

18 (1) At the hearing, evidence may be presented by either party,
19 including, but not limited to, statistical evidence, aggregate data,
20 expert testimony, and the sworn testimony of witnesses. The court
21 may also appoint an independent expert. For the purpose of a
22 motion and hearing under this section, out-of-court statements that
23 the court finds trustworthy and reliable, statistical evidence, and
24 aggregated data are admissible for the limited purpose of
25 determining whether a violation of subdivision (a) has occurred.

26 (2) The defendant shall have the burden of proving a violation
27 of subdivision (a) by a preponderance of the evidence. The
28 defendant does not need to prove intentional discrimination.

29 (3) At the conclusion of the hearing, the court shall make
30 findings on the record.

31 (d) A defendant may file a motion requesting disclosure to the
32 defense of all evidence relevant to a potential violation of
33 subdivision (a) in the possession or control of the state. A motion
34 filed under this section shall describe the type of records or
35 information the defendant seeks. Upon a showing of good cause,
36 the court shall order the records to be released. Upon a showing
37 of good cause, and in order to protect a privacy right or privilege,
38 the court may permit the prosecution to redact information prior
39 to disclosure or may subject disclosure to a protective order. If a
40 statutory privilege or constitutional privacy right cannot be

1 adequately protected by redaction or a protective order, the court
2 shall not order the release of the records.

3 (e) Notwithstanding any other law, except as provided in
4 subdivision (k), or for an initiative approved by the voters, if the
5 court finds, by a preponderance of evidence, a violation of
6 subdivision (a), the court shall impose a remedy specific to the
7 violation found from the following list:

8 (1) Before a judgment has been entered, the court may impose
9 any of the following remedies:

10 (A) Declare a mistrial, if requested by the defendant.

11 (B) Discharge the jury panel and empanel a new jury.

12 (C) If the court determines that it would be in the interest of
13 justice, dismiss enhancements, special circumstances, or special
14 allegations, or reduce one or more charges.

15 (2) (A) After a judgment has been entered, if the court finds
16 that a conviction was sought or obtained in violation of subdivision
17 (a), the court shall vacate the conviction and sentence, find that it
18 is legally invalid, and order new proceedings consistent with
19 subdivision (a). If the court finds that the only violation of
20 subdivision (a) that occurred is based on paragraph (3) of
21 subdivision (a), the court may modify the judgment to a lesser
22 included or lesser related offense. On resentencing, the court shall
23 not impose a new sentence greater than that previously imposed.

24 (B) After a judgment has been entered, if the court finds that
25 only the sentence was sought, obtained, or imposed in violation
26 of subdivision (a), the court shall vacate the sentence, find that it
27 is legally invalid, and impose a new sentence. On resentencing,
28 the court shall not impose a new sentence greater than that
29 previously imposed.

30 (3) When the court finds there has been a violation of
31 subdivision (a), the defendant shall not be eligible for the death
32 penalty.

33 (4) The remedies available under this section do not foreclose
34 any other remedies available under the United States Constitution,
35 the California Constitution, or any other law.

36 (f) This section also applies to adjudications and dispositions
37 in the juvenile delinquency system and adjudications to transfer a
38 juvenile case to adult court.

39 (g) This section shall not prevent the prosecution of hate crimes
40 pursuant to Sections 422.6 to 422.865, inclusive.

1 (h) As used in this section, the following definitions apply:

2 (1) “More frequently sought or obtained” or “more frequently
3 imposed” means that the totality of the evidence demonstrates a
4 significant difference in seeking or obtaining convictions or in
5 imposing sentences comparing individuals who have engaged in
6 similar conduct and are similarly situated, and the prosecution
7 cannot establish race-neutral reasons for the disparity. The evidence
8 may include statistical evidence, aggregate data, or nonstatistical
9 evidence. Statistical significance is a factor the court may consider,
10 but is not necessary to establish a significant difference. In
11 evaluating the totality of the evidence, the court shall consider
12 whether systemic and institutional racial bias, racial profiling, and
13 historical patterns of racially biased policing and prosecution may
14 have contributed to, or caused differences observed in, the data or
15 impacted the availability of data overall. Race-neutral reasons shall
16 be relevant factors to charges, convictions, and sentences that are
17 not influenced by implicit, systemic, or institutional bias based on
18 race, ethnicity, or national origin.

19 (2) “Prima facie showing” means that the defendant produces
20 facts that, if true, establish that there is a substantial likelihood that
21 a violation of subdivision (a) occurred. For purposes of this section,
22 a “substantial likelihood” requires more than a mere possibility,
23 but less than a standard of more likely than not.

24 (3) “Relevant factors,” as that phrase applies to sentencing,
25 means the factors in the California Rules of Court that pertain to
26 sentencing decisions and any additional factors required to or
27 permitted to be considered in sentencing under state law and under
28 the state and federal constitutions.

29 (4) “Racially discriminatory language” means language that, to
30 an objective observer, explicitly or implicitly appeals to racial bias,
31 including, but not limited to, racially charged or racially coded
32 language, language that compares the defendant to an animal, or
33 language that references the defendant’s physical appearance,
34 culture, ethnicity, or national origin. Evidence that particular words
35 or images are used exclusively or disproportionately in cases where
36 the defendant is of a specific race, ethnicity, or national origin is
37 relevant to determining whether language is discriminatory.

38 (5) “State” includes the Attorney General, a district attorney,
39 or a city prosecutor.

1 (6) “Similarly situated” means that factors that are relevant in
2 charging and sentencing are similar and do not require that all
3 individuals in the comparison group are identical. A defendant’s
4 conviction history may be a relevant factor to the severity of the
5 charges, convictions, or sentences. If it is a relevant factor and the
6 defense produces evidence that the conviction history may have
7 been impacted by racial profiling or historical patterns of racially
8 biased policing, the court shall consider the evidence.

9 (i) A defendant may share a race, ethnicity, or national origin
10 with more than one group. A defendant may aggregate data among
11 groups to demonstrate a violation of subdivision (a).

12 (j) This section applies as follows:

13 (1) To all cases in which judgment is not final.

14 (2) Commencing January 1, 2023, to all cases in which, at the
15 time of the filing of a petition pursuant to subdivision (e) of Section
16 1473 raising a claim under this section, the petitioner is sentenced
17 to death or to cases in which the motion is filed pursuant to Section
18 1473.7 because of actual or potential immigration consequences
19 related to the conviction or sentence, regardless of when the
20 judgment or disposition became final.

21 (3) Commencing January 1, 2024, to all cases in which, at the
22 time of the filing of a petition pursuant to subdivision (e) of Section
23 1473 raising a claim under this section, the petitioner is currently
24 serving a sentence in the state prison or in a county jail pursuant
25 to subdivision (h) of Section 1170, or committed to the Division
26 of Juvenile Justice for a juvenile disposition, regardless of when
27 the judgment or disposition became final.

28 (4) Commencing January 1, 2025, to all cases filed pursuant to
29 Section 1473.7 or subdivision (e) of Section 1473 in which
30 judgment became final for a felony conviction or juvenile
31 disposition that resulted in a commitment to the Division of
32 Juvenile Justice on or after January 1, 2015.

33 (5) Commencing January 1, 2026, to all cases filed pursuant to
34 Section 1473.7 or subdivision (e) of Section 1473 in which
35 judgment was for a felony conviction or juvenile disposition that
36 resulted in a commitment to the Division of Juvenile Justice,
37 regardless of when the judgment or disposition became final.

38 (k) For petitions that are filed in cases for which judgment was
39 entered before January 1, 2021, and only in those cases, if the
40 petition is based on a violation of paragraph (1) or (2) of

1 subdivision (a), the petitioner shall be entitled to relief as provided
2 in subdivision (e), unless the state proves beyond a reasonable
3 doubt that the violation did not contribute to the judgment.

4 SEC. 5. Section 1203.4b of the Penal Code is amended to read:

5 1203.4b. (a) (1) If a defendant successfully participated in
6 the California Conservation Camp program as an incarcerated
7 individual hand crew member, as determined by the Secretary of
8 the Department of Corrections and Rehabilitation, or successfully
9 participated as a member of a county incarcerated individual hand
10 crew, as determined by the appropriate county authority, or
11 successfully participated at an institutional firehouse, as determined
12 by the Secretary of the Department of Corrections and
13 Rehabilitation, and has been released from custody, the defendant
14 is eligible for relief pursuant to this section, except that incarcerated
15 individuals who have been convicted of any of the following crimes
16 are automatically ineligible for relief pursuant to this section:

17 (A) Murder.

18 (B) Kidnapping.

19 (C) Rape as defined in paragraph (2) or (6) of subdivision (a)
20 of Section 261 or paragraph (1) or (4) of subdivision (a) of Section
21 262.

22 (D) Lewd acts on a child under 14 years of age, as defined in
23 Section 288.

24 (E) Any felony punishable by death or imprisonment in the state
25 prison for life.

26 (F) Any sex offense requiring registration pursuant to Section
27 290.

28 (G) Escape from a secure perimeter within the previous 10 years.

29 (H) Arson.

30 (2) Any denial of relief pursuant to this section shall be without
31 prejudice.

32 (3) For purposes of this subdivision, successful participation in
33 a conservation camp program or a program at an institutional
34 firehouse and successful participation as a member of a county
35 incarcerated individual hand crew, as determined by the appropriate
36 county authority, means the incarcerated individual adequately
37 performed their duties without any conduct that warranted removal
38 from the program.

39 (b) (1) The defendant may file a petition for relief with the
40 court in the county where the defendant was sentenced. The court

1 shall provide a copy of the petition to the secretary, or, in the case
2 of a county incarcerated individual hand crew member, the
3 appropriate county authority.

4 (2) If the secretary or appropriate county authority certifies to
5 the court that the defendant successfully participated in the
6 incarcerated individual conservation camp program, or institutional
7 firehouse, or successfully participated as a member of a county
8 incarcerated individual hand crew, as determined by the appropriate
9 county authority, as specified in subdivision (a), and has been
10 released from custody, the court, in its discretion and in the
11 interests of justice, may issue an order pursuant to subdivision (c).

12 (3) To be eligible for relief pursuant to this section, the defendant
13 is not required to complete the term of their probation, parole, or
14 supervised release. Notwithstanding any other law, the court, in
15 providing relief pursuant to this section, shall order early
16 termination of probation, parole, or supervised release if the court
17 determines that the defendant has not violated any terms or
18 conditions of probation, parole, or supervised release prior to, and
19 during the pendency of, the petition for relief pursuant to this
20 section.

21 (4) All convictions for which the defendant is serving a sentence
22 at the time the defendant successfully participates in a program as
23 specified in subdivision (a) are subject to relief pursuant to this
24 section, except that a defendant convicted of any offense listed in
25 subparagraphs (A) to (H), inclusive, of paragraph (1) of subdivision
26 (a) is ineligible for relief pursuant to this section.

27 (5) (A) A defendant who is granted an order pursuant to this
28 section shall not be required to disclose the conviction on an
29 application for licensure by any state or local agency.

30 (B) This paragraph does not apply to an application for licensure
31 by the Commission on Teacher Credentialing, a position as a peace
32 officer, public office, or for contracting with the California State
33 Lottery Commission.

34 (c) (1) If the requirements of this section are met, the court, in
35 its discretion and in the interest of justice, may permit the defendant
36 to withdraw the plea of guilty or plea of nolo contendere and enter
37 a plea of not guilty, or, if the defendant has been convicted after
38 a plea of not guilty, the court shall set aside the verdict of guilty,
39 and, in either case, the court shall thereupon dismiss the accusations
40 or information against the defendant and the defendant shall

1 thereafter be released from all penalties and disabilities resulting
2 from the offense of which the defendant has been convicted, except
3 as provided in Section 13555 of the Vehicle Code.

4 (2) The relief available pursuant to this section shall not be
5 granted if the defendant is currently charged with the commission
6 of any other offense.

7 (3) The defendant may make the application and change of plea
8 in person or by attorney.

9 (4) (A) A petition for relief under this section shall not be
10 denied due to an unfulfilled order of restitution or restitution fine.

11 (B) An unfulfilled order of restitution or restitution fine shall
12 not be grounds for finding that a defendant did not successfully
13 participate in the California Conservation Camp program as an
14 incarcerated individual hand crew member or at an institutional
15 firehouse, or that the defendant did not successfully participate as
16 a member of a county incarcerated individual hand crew.

17 (C) When the court considers a petition for relief under this
18 section, in its discretion and in the interest of justice, an unpaid
19 order of restitution or restitution fine shall not be grounds for denial
20 of the petition for relief.

21 (d) Relief granted pursuant to this section is subject to the
22 following conditions:

23 (1) In any subsequent prosecution of the defendant for any other
24 offense, the prior conviction may be pleaded and proved and shall
25 have the same effect as if the accusation or information had not
26 been dismissed.

27 (2) The order shall state, and the defendant shall be informed,
28 that the order does not relieve the defendant of the obligation to
29 disclose the conviction in response to any direct question contained
30 in any questionnaire or application for licensure by the Commission
31 on Teacher Credentialing, a peace officer, public office, or for
32 contracting with the California State Lottery Commission.

33 (3) Dismissal of an accusation or information pursuant to this
34 section does not permit a person to own, possess, or have in the
35 person's custody or control any firearm or prevent their conviction
36 under Chapter 2 (commencing with Section 29800) of Division 9
37 of Title 4 of Part 6.

38 (4) Dismissal of an accusation or information underlying a
39 conviction pursuant to this section does not permit a person

1 prohibited from holding public office as a result of that conviction
2 to hold public office.

3 (5) Dismissal of an accusation or information pursuant to this
4 section does not release the defendant from the terms and
5 conditions of any unexpired criminal protective order that has been
6 issued by the court pursuant to paragraph (1) of subdivision (i) of
7 Section 136.2, subdivision (j) of Section 273.5, subdivision (l) of
8 Section 368, or subdivision (k) of Section 646.9. These protective
9 orders shall remain in full effect until expiration or until any further
10 order by the court modifying or terminating the order, despite the
11 dismissal of the underlying accusation or information.

12 (e) (1) Relief shall not be granted under this section unless the
13 prosecuting attorney has been given 15 days' notice of the petition
14 for relief.

15 (2) It shall be presumed that the prosecuting attorney has
16 received notice if proof of service is filed with the court.

17 (f) If, after receiving notice pursuant to subdivision (e), the
18 prosecuting attorney fails to appear and object to a petition for
19 dismissal, the prosecuting attorney may not move to set aside or
20 otherwise appeal the grant of that petition.

21 ~~SEC. 6. Section 1370 of the Penal Code is amended to read:~~

22 ~~1370. (a) (1) (A) If the defendant is found mentally~~
23 ~~competent, the criminal process shall resume, the trial on the~~
24 ~~offense charged or hearing on the alleged violation shall proceed,~~
25 ~~and judgment may be pronounced.~~

26 ~~(B) If the defendant is found mentally incompetent, the trial,~~
27 ~~the hearing on the alleged violation, or the judgment shall be~~
28 ~~suspended until the person becomes mentally competent.~~

29 ~~(i) The court shall order that the mentally incompetent defendant~~
30 ~~be delivered by the sheriff to a State Department of State Hospitals~~
31 ~~facility, as defined in Section 4100 of the Welfare and Institutions~~
32 ~~Code, as directed by the State Department of State Hospitals, or~~
33 ~~to any other available public or private treatment facility, including~~
34 ~~a community-based residential treatment system approved by the~~
35 ~~community program director, or their designee, that will promote~~
36 ~~the defendant's speedy restoration to mental competence, or placed~~
37 ~~on outpatient status as specified in Section 1600.~~

38 ~~(ii) However, if the action against the defendant who has been~~
39 ~~found mentally incompetent is on a complaint charging a felony~~
40 ~~offense specified in Section 290, the prosecutor shall determine~~

1 whether the defendant previously has been found mentally
2 incompetent to stand trial pursuant to this chapter on a charge of
3 a Section 290 offense, or whether the defendant is currently the
4 subject of a pending Section 1368 proceeding arising out of a
5 charge of a Section 290 offense. If either determination is made,
6 the prosecutor shall notify the court and defendant in writing. After
7 this notification, and opportunity for hearing, the court shall order
8 that the defendant be delivered by the sheriff to a State Department
9 of State Hospitals facility, as directed by the State Department of
10 State Hospitals, or other secure treatment facility for the care and
11 treatment of persons with a mental health disorder, unless the court
12 makes specific findings on the record that an alternative placement
13 would provide more appropriate treatment for the defendant and
14 would not pose a danger to the health and safety of others.

15 (iii) If the action against the defendant who has been found
16 mentally incompetent is on a complaint charging a felony offense
17 specified in Section 290 and the defendant has been denied bail
18 pursuant to subdivision (b) of Section 12 of Article I of the
19 California Constitution because the court has found, based upon
20 clear and convincing evidence, a substantial likelihood that the
21 person's release would result in great bodily harm to others, the
22 court shall order that the defendant be delivered by the sheriff to
23 a State Department of State Hospitals facility, as directed by the
24 State Department of State Hospitals, unless the court makes specific
25 findings on the record that an alternative placement would provide
26 more appropriate treatment for the defendant and would not pose
27 a danger to the health and safety of others.

28 (iv) (I) If, at any time after the court finds that the defendant is
29 mentally incompetent and before the defendant is transported to
30 a facility pursuant to this section, the court is provided with any
31 information that the defendant may benefit from diversion pursuant
32 to Chapter 2.8A (commencing with Section 1001.35) of Title 6,
33 the court may make a finding that the defendant is an appropriate
34 candidate for diversion.

35 (II) Notwithstanding subclause (I), if a defendant is found
36 mentally incompetent and is transferred to a facility described in
37 Section 4361.6 of the Welfare and Institutions Code, the court
38 may, at any time upon receiving any information that the defendant
39 may benefit from diversion pursuant to Chapter 2.8A (commencing

1 with Section 1001.35) of Title 6, make a finding that the defendant
2 is an appropriate candidate for diversion.

3 (v) ~~If a defendant is found by the court to be an appropriate~~
4 ~~candidate for diversion pursuant to clause (iv), the defendant's~~
5 ~~eligibility shall be determined pursuant to Section 1001.36. A~~
6 ~~defendant granted diversion may participate for the lesser of the~~
7 ~~period specified in paragraph (1) of subdivision (c) or the~~
8 ~~applicable period described in subparagraph (C) of paragraph (1)~~
9 ~~of subdivision (f) of Section 1001.36. If, during that period, the~~
10 ~~court determines that criminal proceedings should be reinstated~~
11 ~~pursuant to subdivision (g) of Section 1001.36, the court shall,~~
12 ~~pursuant to Section 1369, appoint a psychiatrist, licensed~~
13 ~~psychologist, or any other expert the court may deem appropriate,~~
14 ~~to determine the defendant's competence to stand trial.~~

15 (vi) ~~Upon the dismissal of charges at the conclusion of the period~~
16 ~~of diversion, pursuant to subdivision (h) of Section 1001.36, a~~
17 ~~defendant shall no longer be deemed incompetent to stand trial~~
18 ~~pursuant to this section.~~

19 (vii) ~~The clerk of the court shall notify the Department of Justice,~~
20 ~~in writing, of a finding of mental incompetence with respect to a~~
21 ~~defendant who is subject to clause (ii) or (iii) for inclusion in the~~
22 ~~defendant's state summary criminal history information.~~

23 (C) ~~Upon the filing of a certificate of restoration to competence,~~
24 ~~the court shall order that the defendant be returned to court in~~
25 ~~accordance with Section 1372. The court shall transmit a copy of~~
26 ~~its order to the community program director or a designee.~~

27 (D) ~~A defendant charged with a violent felony may not be~~
28 ~~delivered to a State Department of State Hospitals facility or~~
29 ~~treatment facility pursuant to this subdivision unless the State~~
30 ~~Department of State Hospitals facility or treatment facility has a~~
31 ~~secured perimeter or a locked and controlled treatment facility,~~
32 ~~and the judge determines that the public safety will be protected.~~

33 (E) ~~For purposes of this paragraph, "violent felony" means an~~
34 ~~offense specified in subdivision (c) of Section 667.5.~~

35 (F) ~~A defendant charged with a violent felony may be placed~~
36 ~~on outpatient status, as specified in Section 1600, only if the court~~
37 ~~finds that the placement will not pose a danger to the health or~~
38 ~~safety of others. If the court places a defendant charged with a~~
39 ~~violent felony on outpatient status, as specified in Section 1600,~~
40 ~~the court shall serve copies of the placement order on defense~~

1 counsel, the sheriff in the county where the defendant will be
2 placed, and the district attorney for the county in which the violent
3 felony charges are pending against the defendant.

4 (G) If, at any time after the court has declared a defendant
5 incompetent to stand trial pursuant to this section, counsel for the
6 defendant or a jail medical or mental health staff provider provides
7 the court with substantial evidence that the defendant's psychiatric
8 symptoms have changed to such a degree as to create a doubt in
9 the mind of the judge as to the defendant's current mental
10 incompetence, the court may appoint a psychiatrist or a licensed
11 psychologist to opine as to whether the defendant has regained
12 competence. If, in the opinion of that expert, the defendant has
13 regained competence, the court shall proceed as if a certificate of
14 restoration of competence has been returned pursuant to paragraph
15 (1) of subdivision (a) of Section 1372.

16 (H) (i) The State Department of State Hospitals may, pursuant
17 to Section 4335.2 of the Welfare and Institutions Code, conduct
18 an evaluation of the defendant in county custody to determine any
19 of the following:

20 (I) The defendant has regained competence.

21 (II) There is no substantial likelihood that the defendant will
22 regain competence in the foreseeable future.

23 (III) The defendant should be referred to the county for further
24 evaluation for potential participation in a county diversion program,
25 if one exists, or to another outpatient treatment program.

26 (ii) If, in the opinion of the department's expert, the defendant
27 has regained competence, the court shall proceed as if a certificate
28 of restoration of competence has been returned pursuant to
29 paragraph (1) of subdivision (a) of Section 1372.

30 (iii) If, in the opinion of the department's expert, there is no
31 substantial likelihood that the defendant will regain mental
32 competence in the foreseeable future, the committing court shall
33 proceed pursuant to paragraph (3) of subdivision (c) no later than
34 10 days following receipt of the report.

35 (2) Prior to making the order directing that the defendant be
36 committed to the State Department of State Hospitals or other
37 treatment facility or placed on outpatient status, the court shall
38 proceed as follows:

39 (A) (i) The court shall order the community program director
40 or a designee to evaluate the defendant and to submit to the court

1 within 15 judicial days of the order a written recommendation as
2 to whether the defendant should be required to undergo outpatient
3 treatment, or be committed to the State Department of State
4 Hospitals or to any other treatment facility. A person shall not be
5 admitted to a State Department of State Hospitals facility or other
6 treatment facility or placed on outpatient status under this section
7 without having been evaluated by the community program director
8 or a designee. The community program director or designee shall
9 evaluate the appropriate placement for the defendant between a
10 State Department of State Hospitals facility or the
11 community-based residential treatment system based upon
12 guidelines provided by the State Department of State Hospitals.

13 (ii) Commencing on July 1, 2023, a defendant shall first be
14 considered for placement in an outpatient treatment program, a
15 community treatment program, or a diversion program, if any such
16 program is available, unless a court, based upon the
17 recommendation of the community program director or their
18 designee, finds that either the clinical needs of the defendant or
19 the risk to community safety, warrant placement in a State
20 Department of State Hospitals facility.

21 (B) The court shall hear and determine whether the defendant
22 lacks capacity to make decisions regarding the administration of
23 antipsychotic medication. The court shall consider opinions in the
24 reports prepared pursuant to subdivision (a) of Section 1369, as
25 applicable to the issue of whether the defendant lacks capacity to
26 make decisions regarding the administration of antipsychotic
27 medication, and shall proceed as follows:

28 (i) The court shall hear and determine whether any of the
29 following is true:

30 (I) Based upon the opinion of the psychiatrist or licensed
31 psychologist offered to the court pursuant to subparagraph (A) of
32 paragraph (2) of subdivision (a) of Section 1369, the defendant
33 lacks capacity to make decisions regarding antipsychotic
34 medication, the defendant's mental disorder requires medical
35 treatment with antipsychotic medication, and, if the defendant's
36 mental disorder is not treated with antipsychotic medication, it is
37 probable that serious harm to the physical or mental health of the
38 defendant will result. Probability of serious harm to the physical
39 or mental health of the defendant requires evidence that the
40 defendant is presently suffering adverse effects to their physical

1 or mental health, or the defendant has previously suffered these
2 effects as a result of a mental disorder and their condition is
3 substantially deteriorating. The fact that a defendant has a diagnosis
4 of a mental disorder does not alone establish probability of serious
5 harm to the physical or mental health of the defendant.

6 (H) ~~Based upon the opinion of the psychiatrist or licensed~~
7 ~~psychologist offered to the court pursuant to subparagraph (A) of~~
8 ~~paragraph (2) of subdivision (a) of Section 1369, the defendant is~~
9 ~~a danger to others, in that the defendant has inflicted, attempted~~
10 ~~to inflict, or made a serious threat of inflicting substantial physical~~
11 ~~harm on another while in custody, or the defendant had inflicted,~~
12 ~~attempted to inflict, or made a serious threat of inflicting substantial~~
13 ~~physical harm on another that resulted in the defendant being taken~~
14 ~~into custody, and the defendant presents, as a result of mental~~
15 ~~disorder or mental defect, a demonstrated danger of inflicting~~
16 ~~substantial physical harm on others. Demonstrated danger may be~~
17 ~~based on an assessment of the defendant's present mental condition,~~
18 ~~including a consideration of past behavior of the defendant within~~
19 ~~six years prior to the time the defendant last attempted to inflict,~~
20 ~~inflicted, or threatened to inflict substantial physical harm on~~
21 ~~another, and other relevant evidence.~~

22 (H) ~~The people have charged the defendant with a serious crime~~
23 ~~against the person or property, and based upon the opinion of the~~
24 ~~psychiatrist offered to the court pursuant to subparagraph (C) of~~
25 ~~paragraph (2) of subdivision (a) of Section 1369, the involuntary~~
26 ~~administration of antipsychotic medication is substantially likely~~
27 ~~to render the defendant competent to stand trial, the medication is~~
28 ~~unlikely to have side effects that interfere with the defendant's~~
29 ~~ability to understand the nature of the criminal proceedings or to~~
30 ~~assist counsel in the conduct of a defense in a reasonable manner,~~
31 ~~less intrusive treatments are unlikely to have substantially the same~~
32 ~~results, and antipsychotic medication is medically necessary and~~
33 ~~appropriate in light of their medical condition.~~

34 (ii) (I) ~~If the court finds the conditions described in subelause~~
35 ~~(I) or (H) of clause (i) to be true, and if pursuant to the opinion~~
36 ~~offered to the court pursuant to paragraph (2) of subdivision (a)~~
37 ~~of Section 1369, a psychiatrist has opined that treatment with~~
38 ~~antipsychotic medications is appropriate for the defendant, the~~
39 ~~court shall issue an order authorizing the administration of~~
40 ~~antipsychotic medication as needed, including on an involuntary~~

1 basis, to be administered under the direction and supervision of a
2 licensed psychiatrist.

3 (II) If the court finds the conditions described in subclause (I)
4 or (II) of clause (i) to be true, and if pursuant to the opinion offered
5 to the court pursuant to paragraph (2) of subdivision (a) of Section
6 1369, a licensed psychologist has opined that treatment with
7 antipsychotic medication may be appropriate for the defendant,
8 the court shall issue an order authorizing treatment by a licensed
9 psychiatrist on an involuntary basis. That treatment may include
10 the administration of antipsychotic medication as needed, to be
11 administered under the direction and supervision of a licensed
12 psychiatrist.

13 (III) If the court finds the conditions described in subclause (III)
14 of clause (i) to be true, and if pursuant to the opinion offered to
15 the court pursuant to paragraph (2) of subdivision (a) of Section
16 1369, a psychiatrist has opined that it is appropriate to treat the
17 defendant with antipsychotic medication, the court shall issue an
18 order authorizing the administration of antipsychotic medication
19 as needed, including on an involuntary basis, to be administered
20 under the direction and supervision of a licensed psychiatrist.

21 (iii) An order authorizing involuntary administration of
22 antipsychotic medication to the defendant when and as prescribed
23 by the defendant's treating psychiatrist at any facility housing the
24 defendant for purposes of this chapter, including a county jail,
25 shall remain in effect when the defendant returns to county custody
26 pursuant to subparagraph (A) of paragraph (1) of subdivision (b)
27 or paragraph (1) of subdivision (c), or pursuant to subparagraph
28 (C) of paragraph (3) of subdivision (a) of Section 1372, but shall
29 be valid for no more than one year, pursuant to subparagraph (A)
30 of paragraph (7). The court shall not order involuntary
31 administration of psychotropic medication under subclause (III)
32 of clause (i) unless the court has first found that the defendant does
33 not meet the criteria for involuntary administration of psychotropic
34 medication under subclause (I) of clause (i) and does not meet the
35 criteria under subclause (II) of clause (i).

36 (iv) In all cases, the treating hospital, county jail, facility, or
37 program may administer medically appropriate antipsychotic
38 medication prescribed by a psychiatrist in an emergency as
39 described in subdivision (m) of Section 5008 of the Welfare and
40 Institutions Code.

1 ~~(v) If the court has determined that the defendant has the~~
2 ~~capacity to make decisions regarding antipsychotic medication,~~
3 ~~and if the defendant, with advice of their counsel, consents, the~~
4 ~~court order of commitment shall include confirmation that~~
5 ~~antipsychotic medication may be given to the defendant as~~
6 ~~prescribed by a treating psychiatrist pursuant to the defendant's~~
7 ~~consent. The commitment order shall also indicate that, if the~~
8 ~~defendant withdraws consent for antipsychotic medication, after~~
9 ~~the treating psychiatrist complies with the provisions of~~
10 ~~subparagraph (C), the defendant shall be returned to court for a~~
11 ~~hearing in accordance with subparagraphs (C) and (D) regarding~~
12 ~~whether antipsychotic medication shall be administered~~
13 ~~involuntarily.~~

14 ~~(vi) If the court has determined that the defendant has the~~
15 ~~capacity to make decisions regarding antipsychotic medication~~
16 ~~and if the defendant, with advice from their counsel, does not~~
17 ~~consent, the court order for commitment shall indicate that, after~~
18 ~~the treating psychiatrist complies with the provisions of~~
19 ~~subparagraph (C), the defendant shall be returned to court for a~~
20 ~~hearing in accordance with subparagraphs (C) and (D) regarding~~
21 ~~whether antipsychotic medication shall be administered~~
22 ~~involuntarily.~~

23 ~~(vii) A report made pursuant to paragraph (1) of subdivision (b)~~
24 ~~shall include a description of antipsychotic medication administered~~
25 ~~to the defendant and its effects and side effects, including effects~~
26 ~~on the defendant's appearance or behavior that would affect the~~
27 ~~defendant's ability to understand the nature of the criminal~~
28 ~~proceedings or to assist counsel in the conduct of a defense in a~~
29 ~~reasonable manner. During the time the defendant is confined in~~
30 ~~a State Department of State Hospitals facility or other treatment~~
31 ~~facility or placed on outpatient status, either the defendant or the~~
32 ~~people may request that the court review any order made pursuant~~
33 ~~to this subdivision. The defendant, to the same extent enjoyed by~~
34 ~~other patients in the State Department of State Hospitals facility~~
35 ~~or other treatment facility, shall have the right to contact the~~
36 ~~patients' rights advocate regarding the defendant's rights under~~
37 ~~this section.~~

38 ~~(C) If the defendant consented to antipsychotic medication as~~
39 ~~described in clause (iv) of subparagraph (B), but subsequently~~
40 ~~withdraws their consent, or, if involuntary antipsychotic medication~~

1 was not ordered pursuant to clause (v) of subparagraph (B), and
2 the treating psychiatrist determines that antipsychotic medication
3 has become medically necessary and appropriate, the treating
4 psychiatrist shall make efforts to obtain informed consent from
5 the defendant for antipsychotic medication. If informed consent
6 is not obtained from the defendant, and the treating psychiatrist is
7 of the opinion that the defendant lacks capacity to make decisions
8 regarding antipsychotic medication based on the conditions
9 described in subclause (I) or (II) of clause (i) of subparagraph (B);
10 the treating psychiatrist shall certify whether the lack of capacity
11 and any applicable conditions described above exist. That
12 certification shall contain an assessment of the current mental
13 status of the defendant and the opinion of the treating psychiatrist
14 that involuntary antipsychotic medication has become medically
15 necessary and appropriate.

16 (D) (i) If the treating psychiatrist certifies that antipsychotic
17 medication has become medically necessary and appropriate
18 pursuant to subparagraph (C), antipsychotic medication may be
19 administered to the defendant for not more than 21 days, provided,
20 however, that, within 72 hours of the certification, the defendant
21 is provided a medication review hearing before an administrative
22 law judge to be conducted at the facility where the defendant is
23 receiving treatment. The treating psychiatrist shall present the case
24 for the certification for involuntary treatment and the defendant
25 shall be represented by an attorney or a patients' rights advocate.
26 The attorney or patients' rights advocate shall be appointed to meet
27 with the defendant no later than one day prior to the medication
28 review hearing to review the defendant's rights at the medication
29 review hearing, discuss the process, answer questions or concerns
30 regarding involuntary medication or the hearing, assist the
31 defendant in preparing for the hearing and advocating for the
32 defendant's interests at the hearing, review the panel's final
33 determination following the hearing, advise the defendant of their
34 right to judicial review of the panel's decision, and provide the
35 defendant with referral information for legal advice on the subject.
36 The defendant shall also have the following rights with respect to
37 the medication review hearing:

- 38 (I) To be given timely access to the defendant's records.
- 39 (II) To be present at the hearing, unless the defendant waives
40 that right.

1 ~~(III) To present evidence at the hearing.~~

2 ~~(IV) To question persons presenting evidence supporting~~
3 ~~involuntary medication.~~

4 ~~(V) To make reasonable requests for attendance of witnesses~~
5 ~~on the defendant's behalf.~~

6 ~~(VI) To a hearing conducted in an impartial and informal~~
7 ~~manner.~~

8 ~~(ii) If the administrative law judge determines that the defendant~~
9 ~~either meets the criteria specified in subclause (I) of clause (i) of~~
10 ~~subparagraph (B), or meets the criteria specified in subclause (II)~~
11 ~~of clause (i) of subparagraph (B), antipsychotic medication may~~
12 ~~continue to be administered to the defendant for the 21-day~~
13 ~~certification period. Concurrently with the treating psychiatrist's~~
14 ~~certification, the treating psychiatrist shall file a copy of the~~
15 ~~certification and a petition with the court for issuance of an order~~
16 ~~to administer antipsychotic medication beyond the 21-day~~
17 ~~certification period. For purposes of this subparagraph, the treating~~
18 ~~psychiatrist shall not be required to pay or deposit any fee for the~~
19 ~~filing of the petition or other document or paper related to the~~
20 ~~petition.~~

21 ~~(iii) If the administrative law judge disagrees with the~~
22 ~~certification, medication may not be administered involuntarily~~
23 ~~until the court determines that antipsychotic medication should be~~
24 ~~administered pursuant to this section.~~

25 ~~(iv) The court shall provide notice to the prosecuting attorney~~
26 ~~and to the attorney representing the defendant, and shall hold a~~
27 ~~hearing, no later than 18 days from the date of the certification, to~~
28 ~~determine whether antipsychotic medication should be ordered~~
29 ~~beyond the certification period.~~

30 ~~(v) If, as a result of the hearing, the court determines that~~
31 ~~antipsychotic medication should be administered beyond the~~
32 ~~certification period, the court shall issue an order authorizing the~~
33 ~~administration of that medication.~~

34 ~~(vi) The court shall render its decision on the petition and issue~~
35 ~~its order no later than three calendar days after the hearing and, in~~
36 ~~any event, no later than the expiration of the 21-day certification~~
37 ~~period.~~

38 ~~(vii) If the administrative law judge upholds the certification~~
39 ~~pursuant to clause (ii), the court may, for a period not to exceed~~
40 ~~14 days, extend the certification and continue the hearing pursuant~~

1 to stipulation between the parties or upon a finding of good cause.
2 In determining good cause, the court may review the petition filed
3 with the court, the administrative law judge's order, and any
4 additional testimony needed by the court to determine if it is
5 appropriate to continue medication beyond the 21-day certification
6 and for a period of up to 14 days.

7 (viii) The district attorney, county counsel, or representative of
8 a facility where a defendant found incompetent to stand trial is
9 committed may petition the court for an order to administer
10 involuntary medication pursuant to the criteria set forth in
11 subclauses (H) and (HH) of clause (i) of subparagraph (B). The
12 order is reviewable as provided in paragraph (7).

13 (3) When the court orders that the defendant be committed to
14 a State Department of State Hospitals facility or other public or
15 private treatment facility, the court shall provide copies of the
16 following documents prior to the admission of the defendant to
17 the State Department of State Hospitals or other treatment facility
18 where the defendant is to be committed:

19 (A) The commitment order, which shall include a specification
20 of the charges, an assessment of whether involuntary treatment
21 with antipsychotic medications is warranted, and any orders by
22 the court, pursuant to subparagraph (B) of paragraph (2),
23 authorizing involuntary treatment with antipsychotic medications.

24 (B) A computation or statement setting forth the maximum term
25 of commitment in accordance with subdivision (c).

26 (C) (i) A computation or statement setting forth the amount of
27 credit for time served, if any, to be deducted from the maximum
28 term of commitment.

29 (ii) If a certificate of restoration of competency was filed with
30 the court pursuant to Section 1372 and the court subsequently
31 rejected the certification, a copy of the court order or minute order
32 rejecting the certification shall be provided. The court order shall
33 include a new computation or statement setting forth the amount
34 of credit for time served, if any, to be deducted from the
35 defendant's maximum term of commitment based on the court's
36 rejection of the certification.

37 (D) State summary criminal history information.

38 (E) Jail classification records for the defendant's current
39 incarceration.

1 ~~(F) Arrest reports prepared by the police department or other~~
2 ~~law enforcement agency.~~
3 ~~(G) Court-ordered psychiatric examination or evaluation reports.~~
4 ~~(H) The community program director's placement~~
5 ~~recommendation report.~~
6 ~~(I) Records of a finding of mental incompetence pursuant to~~
7 ~~this chapter arising out of a complaint charging a felony offense~~
8 ~~specified in Section 290 or a pending Section 1368 proceeding~~
9 ~~arising out of a charge of a Section 290 offense.~~
10 ~~(J) Medical records, including jail mental health records.~~
11 ~~(4) When the defendant is committed to a treatment facility~~
12 ~~pursuant to clause (i) of subparagraph (B) of paragraph (1) or the~~
13 ~~court makes the findings specified in clause (ii) or (iii) of~~
14 ~~subparagraph (B) of paragraph (1) to assign the defendant to a~~
15 ~~treatment facility other than a State Department of State Hospitals~~
16 ~~facility or other secure treatment facility, the court shall order that~~
17 ~~notice be given to the appropriate law enforcement agency or~~
18 ~~agencies having local jurisdiction at the placement facility of a~~
19 ~~finding of mental incompetence pursuant to this chapter arising~~
20 ~~out of a charge of a Section 290 offense.~~
21 ~~(5) When directing that the defendant be confined in a State~~
22 ~~Department of State Hospitals facility pursuant to this subdivision,~~
23 ~~the court shall commit the defendant to the State Department of~~
24 ~~State Hospitals.~~
25 ~~(6) (A) If the defendant is committed or transferred to the State~~
26 ~~Department of State Hospitals pursuant to this section, the court~~
27 ~~may, upon receiving the written recommendation of the medical~~
28 ~~director of the State Department of State Hospitals facility and the~~
29 ~~community program director that the defendant be transferred to~~
30 ~~a public or private treatment facility approved by the community~~
31 ~~program director, order the defendant transferred to that facility.~~
32 ~~If the defendant is committed or transferred to a public or private~~
33 ~~treatment facility approved by the community program director,~~
34 ~~the court may, upon receiving the written recommendation of the~~
35 ~~community program director, transfer the defendant to the State~~
36 ~~Department of State Hospitals or to another public or private~~
37 ~~treatment facility approved by the community program director.~~
38 ~~In the event of dismissal of the criminal charges before the~~
39 ~~defendant recovers competence, the person shall be subject to the~~
40 ~~applicable provisions of the Lanterman-Petris-Short Act (Part 1~~

1 ~~(commencing with Section 5000) of Division 5 of the Welfare and~~
2 ~~Institutions Code). If either the defendant or the prosecutor chooses~~
3 ~~to contest either kind of order of transfer, a petition may be filed~~
4 ~~in the court for a hearing, which shall be held if the court~~
5 ~~determines that sufficient grounds exist. At the hearing, the~~
6 ~~prosecuting attorney or the defendant may present evidence bearing~~
7 ~~on the order of transfer. The court shall use the same standards as~~
8 ~~are used in conducting probation revocation hearings pursuant to~~
9 ~~Section 1203.2.~~

10 Prior to making an order for transfer under this section, the court
11 shall notify the defendant, the attorney of record for the defendant,
12 the prosecuting attorney, and the community program director or
13 a designee.

14 (B) ~~If the defendant is initially committed to a State Department~~
15 ~~of State Hospitals facility or secure treatment facility pursuant to~~
16 ~~clause (ii) or (iii) of subparagraph (B) of paragraph (1) and is~~
17 ~~subsequently transferred to any other facility, copies of the~~
18 ~~documents specified in paragraph (3) shall be electronically~~
19 ~~transferred or taken with the defendant to each subsequent facility~~
20 ~~to which the defendant is transferred. The transferring facility shall~~
21 ~~also notify the appropriate law enforcement agency or agencies~~
22 ~~having local jurisdiction at the site of the new facility that the~~
23 ~~defendant is a person subject to clause (ii) or (iii) of subparagraph~~
24 ~~(B) of paragraph (1).~~

25 (7) (A) ~~An order by the court authorizing involuntary~~
26 ~~medication of the defendant shall be valid for no more than one~~
27 ~~year. The court shall review the order at the time of the review of~~
28 ~~the initial report and the six-month progress reports pursuant to~~
29 ~~paragraph (1) of subdivision (b) to determine if the grounds for~~
30 ~~the authorization remain. In the review, the court shall consider~~
31 ~~the reports of the treating psychiatrist or psychiatrists and the~~
32 ~~defendant's patients' rights advocate or attorney. The court may~~
33 ~~require testimony from the treating psychiatrist and the patients'~~
34 ~~rights advocate or attorney, if necessary. The court may continue~~
35 ~~the order authorizing involuntary medication for up to another six~~
36 ~~months, or vacate the order, or make any other appropriate order.~~

37 (B) ~~Within 60 days before the expiration of the one-year~~
38 ~~involuntary medication order, the district attorney, county counsel,~~
39 ~~or representative of any facility where a defendant found~~
40 ~~incompetent to stand trial is committed may petition the committing~~

1 court for a renewal, subject to the same conditions and
2 requirements as in subparagraph (A). The petition shall include
3 the basis for involuntary medication set forth in clause (i) of
4 subparagraph (B) of paragraph (2). Notice of the petition shall be
5 provided to the defendant, the defendant's attorney, and the district
6 attorney. The court shall hear and determine whether the defendant
7 continues to meet the criteria set forth in clause (i) of subparagraph
8 (B) of paragraph (2). The hearing on a petition to renew an order
9 for involuntary medication shall be conducted prior to the
10 expiration of the current order.

11 (8) For purposes of subparagraph (D) of paragraph (2) and
12 paragraph (7), if the treating psychiatrist determines that there is
13 a need, based on preserving their rapport with the defendant or
14 preventing harm, the treating psychiatrist may request that the
15 facility medical director designate another psychiatrist to act in
16 the place of the treating psychiatrist. If the medical director of the
17 facility designates another psychiatrist to act pursuant to this
18 paragraph, the treating psychiatrist shall brief the acting psychiatrist
19 of the relevant facts of the case and the acting psychiatrist shall
20 examine the defendant prior to the hearing.

21 (b) (1) Within 90 days after a commitment made pursuant to
22 subdivision (a), the medical director of the State Department of
23 State Hospitals facility or other treatment facility to which the
24 defendant is confined shall make a written report to the court and
25 the community program director for the county or region of
26 commitment, or a designee, concerning the defendant's progress
27 toward recovery of mental competence and whether the
28 administration of antipsychotic medication remains necessary.

29 If the defendant is in county custody, the county jail shall provide
30 access to the defendant for purposes of the State Department of
31 State Hospitals conducting an evaluation of the defendant pursuant
32 to Section 4335.2 of the Welfare and Institutions Code. Based
33 upon this evaluation, the State Department of State Hospitals may
34 make a written report to the court within 90 days of a commitment
35 made pursuant to subdivision (a) concerning the defendant's
36 progress toward recovery of mental competence and whether the
37 administration of antipsychotic medication is necessary. If the
38 defendant remains in county custody after the initial 90-day report,
39 the State Department of State Hospitals may conduct an evaluation
40 of the defendant pursuant to Section 4335.2 of the Welfare and

1 Institutions Code and make a written report to the court concerning
2 the defendant's progress toward recovery of mental competence
3 and whether the administration of antipsychotic medication is
4 necessary.

5 If the defendant is on outpatient status, the outpatient treatment
6 staff shall make a written report to the community program director
7 concerning the defendant's progress toward recovery of mental
8 competence. Within 90 days of placement on outpatient status, the
9 community program director shall report to the court on this matter.
10 If the defendant has not recovered mental competence, but the
11 report discloses a substantial likelihood that the defendant will
12 regain mental competence in the foreseeable future, the defendant
13 shall remain in the State Department of State Hospitals facility or
14 other treatment facility or on outpatient status. Thereafter, at
15 six-month intervals or until the defendant becomes mentally
16 competent, if the defendant is confined in a treatment facility, the
17 medical director of the State Department of State Hospitals facility
18 or person in charge of the facility shall report, in writing, to the
19 court and the community program director or a designee regarding
20 the defendant's progress toward recovery of mental competence
21 and whether the administration of antipsychotic medication remains
22 necessary. If the defendant is on outpatient status, after the initial
23 90-day report, the outpatient treatment staff shall report to the
24 community program director on the defendant's progress toward
25 recovery, and the community program director shall report to the
26 court on this matter at six-month intervals. A copy of these reports
27 shall be provided to the prosecutor and defense counsel by the
28 court.

29 (A) If the report indicates that there is no substantial likelihood
30 that the defendant will regain mental competence in the foreseeable
31 future, custody of the defendant shall be transferred without delay
32 to the committing county and shall remain with the county until
33 further order of the court. The defendant shall be returned to the
34 court for proceedings pursuant to paragraph (3) of subdivision (c)
35 no later than 10 days following receipt of the report. The court
36 shall not order the defendant returned to the custody of the State
37 Department of State Hospitals under the same commitment. The
38 court shall transmit a copy of its order to the community program
39 director or a designee.

- 1 ~~(B) If the report indicates that there is no substantial likelihood~~
2 ~~that the defendant will regain mental competence in the foreseeable~~
3 ~~future, the medical director of the State Department of State~~
4 ~~Hospitals facility or other treatment facility to which the defendant~~
5 ~~is confined shall do both of the following:~~
6 ~~(i) Promptly notify and provide a copy of the report to the~~
7 ~~defense counsel and the district attorney.~~
8 ~~(ii) Provide a separate notification, in compliance with~~
9 ~~applicable privacy laws, to the committing county's sheriff that~~
10 ~~immediate transportation will be needed for the defendant pursuant~~
11 ~~to subparagraph (A).~~
12 ~~(C) If a county does not take custody of a defendant committed~~
13 ~~to the State Department of State Hospitals within 10 calendar days~~
14 ~~following notification made pursuant to clause (ii) of subparagraph~~
15 ~~(B), the county shall be charged the daily rate for a state hospital~~
16 ~~bed, as established by the State Department of State Hospitals.~~
17 ~~(2) The reports made pursuant to paragraph (1) concerning the~~
18 ~~defendant's progress toward regaining competency shall also~~
19 ~~consider the issue of involuntary medication. Each report shall~~
20 ~~include, but not be limited to, all of the following:~~
21 ~~(A) Whether or not the defendant has the capacity to make~~
22 ~~decisions concerning antipsychotic medication.~~
23 ~~(B) If the defendant lacks capacity to make decisions concerning~~
24 ~~antipsychotic medication, whether the defendant risks serious harm~~
25 ~~to their physical or mental health if not treated with antipsychotic~~
26 ~~medication.~~
27 ~~(C) Whether or not the defendant presents a danger to others if~~
28 ~~the defendant is not treated with antipsychotic medication.~~
29 ~~(D) Whether the defendant has a mental disorder for which~~
30 ~~medications are the only effective treatment.~~
31 ~~(E) Whether there are any side effects from the medication~~
32 ~~currently being experienced by the defendant that would interfere~~
33 ~~with the defendant's ability to collaborate with counsel.~~
34 ~~(F) Whether there are any effective alternatives to medication.~~
35 ~~(G) How quickly the medication is likely to bring the defendant~~
36 ~~to competency.~~
37 ~~(H) Whether the treatment plan includes methods other than~~
38 ~~medication to restore the defendant to competency.~~
39 ~~(I) A statement, if applicable, that no medication is likely to~~
40 ~~restore the defendant to competency.~~

1 ~~(3) After reviewing the reports, the court shall determine if~~
2 ~~grounds for the involuntary administration of antipsychotic~~
3 ~~medication exist, whether or not an order was issued at the time~~
4 ~~of commitment, and shall do one of the following:~~

5 ~~(A) If the original grounds for involuntary medication still exist,~~
6 ~~any order authorizing the treating facility to involuntarily~~
7 ~~administer antipsychotic medication to the defendant shall remain~~
8 ~~in effect.~~

9 ~~(B) If the original grounds for involuntary medication no longer~~
10 ~~exist, and there is no other basis for involuntary administration of~~
11 ~~antipsychotic medication, any order for the involuntary~~
12 ~~administration of antipsychotic medication shall be vacated.~~

13 ~~(C) If the original grounds for involuntary medication no longer~~
14 ~~exist, and the report states that there is another basis for involuntary~~
15 ~~administration of antipsychotic medication, the court shall~~
16 ~~determine whether to vacate the order or issue a new order for the~~
17 ~~involuntary administration of antipsychotic medication. The court~~
18 ~~shall consider the opinions in reports submitted pursuant to~~
19 ~~paragraph (1) of subdivision (b), including any opinions rendered~~
20 ~~pursuant to Section 4335.2 of the Welfare and Institutions Code.~~
21 ~~The court may, upon a showing of good cause, set a hearing within~~
22 ~~21 days to determine whether the order for the involuntary~~
23 ~~administration of antipsychotic medication shall be vacated or~~
24 ~~whether a new order for the involuntary administration of~~
25 ~~antipsychotic medication shall be issued. The hearing shall proceed~~
26 ~~as set forth in subparagraph (B) of paragraph (2) of subdivision~~
27 ~~(a). The court shall require witness testimony to occur remotely,~~
28 ~~including clinical testimony pursuant to subdivision (d) of Section~~
29 ~~4335.2 of the Welfare and Institutions Code. In-person witness~~
30 ~~testimony shall only be allowed upon a court's finding of good~~
31 ~~cause.~~

32 ~~(D) If the report states a basis for involuntary administration of~~
33 ~~antipsychotic medication and the court did not issue such order at~~
34 ~~the time of commitment, the court shall determine whether to issue~~
35 ~~an order for the involuntary administration of antipsychotic~~
36 ~~medication. The court shall consider the opinions in reports~~
37 ~~submitted pursuant to paragraph (1) of subdivision (b), including~~
38 ~~any opinions rendered pursuant to Section 4335.2 of the Welfare~~
39 ~~and Institutions Code. The court may, upon a finding of good~~
40 ~~cause, set a hearing within 21 days to determine whether an order~~

1 for the involuntary administration of antipsychotic medication
2 shall be issued. The hearing shall proceed as set forth in
3 subparagraph (B) of paragraph (2) of subdivision (a). The court
4 shall require witness testimony to occur remotely, including clinical
5 testimony pursuant to subdivision (d) of Section 4335.2 of the
6 Welfare and Institutions Code. In-person witness testimony shall
7 only be allowed upon a court's finding of good cause.

8 (4) If it is determined by the court that treatment for the
9 defendant's mental impairment is not being conducted, the
10 defendant shall be returned to the committing court, and, if the
11 defendant is not in county custody, returned to the custody of the
12 county. The court shall transmit a copy of its order to the
13 community program director or a designee.

14 (5) At each review by the court specified in this subdivision,
15 the court shall determine if the security level of housing and
16 treatment is appropriate and may make an order in accordance
17 with its determination. If the court determines that the defendant
18 shall continue to be treated in the State Department of State
19 Hospitals facility or on an outpatient basis, the court shall
20 determine issues concerning administration of antipsychotic
21 medication, as set forth in subparagraph (B) of paragraph (2) of
22 subdivision (a).

23 (e) (1) At the end of two years from the date of commitment
24 or a period of commitment equal to the maximum term of
25 imprisonment provided by law for the most serious offense charged
26 in the information, indictment, or complaint, or the maximum term
27 of imprisonment provided by law for a violation of probation or
28 mandatory supervision, whichever is shorter, but no later than 90
29 days prior to the expiration of the defendant's term of commitment,
30 a defendant who has not recovered mental competence shall be
31 returned to the committing court, and custody of the defendant
32 shall be transferred without delay to the committing county and
33 shall remain with the county until further order of the court. The
34 court shall not order the defendant returned to the custody of the
35 State Department of State Hospitals under the same commitment.
36 The court shall notify the community program director or a
37 designee of the return and of any resulting court orders.

38 (2) (A) The medical director of the State Department of State
39 Hospitals facility or other treatment facility to which the defendant
40 is confined shall provide notification, in compliance with applicable

1 privacy laws, to the committing county's sheriff that immediate
2 transportation will be needed for the defendant pursuant to
3 paragraph (1).

4 (B) If a county does not take custody of a defendant committed
5 to the State Department of State Hospitals within 10 calendar days
6 following notification pursuant to subparagraph (A), the county
7 shall be charged the daily rate for a state hospital bed, as
8 established by the State Department of State Hospitals.

9 (3) Whenever a defendant is returned to the court pursuant to
10 paragraph (1) or (4) of subdivision (b) or paragraph (1) of this
11 subdivision and it appears to the court that the defendant is gravely
12 disabled, as defined in subparagraph (A) or (B) of paragraph (1)
13 of subdivision (h) of Section 5008 of the Welfare and Institutions
14 Code, the court shall order the conservatorship investigator of the
15 county of commitment of the defendant to initiate conservatorship
16 proceedings for the defendant pursuant to Chapter 3 (commencing
17 with Section 5350) of Part 1 of Division 5 of the Welfare and
18 Institutions Code. Hearings required in the conservatorship
19 proceedings shall be held in the superior court in the county that
20 ordered the commitment. The court shall transmit a copy of the
21 order directing initiation of conservatorship proceedings to the
22 community program director or a designee, the sheriff and the
23 district attorney of the county in which criminal charges are
24 pending, and the defendant's counsel of record. The court shall
25 notify the community program director or a designee, the sheriff
26 and district attorney of the county in which criminal charges are
27 pending, and the defendant's counsel of record of the outcome of
28 the conservatorship proceedings.

29 (4) If a change in placement is proposed for a defendant who
30 is committed pursuant to subparagraph (A) or (B) of paragraph
31 (1) of subdivision (h) of Section 5008 of the Welfare and
32 Institutions Code, the court shall provide notice and an opportunity
33 to be heard with respect to the proposed placement of the defendant
34 to the sheriff and the district attorney of the county in which the
35 criminal charges or revocation proceedings are pending.

36 (5) If the defendant is confined in a treatment facility, a copy
37 of any report to the committing court regarding the defendant's
38 progress toward recovery of mental competence shall be provided
39 by the committing court to the prosecutor and to the defense
40 counsel.

1 ~~(d) With the exception of proceedings alleging a violation of~~
2 ~~mandatory supervision, the criminal action remains subject to~~
3 ~~dismissal pursuant to Section 1385. If the criminal action is~~
4 ~~dismissed, the court shall transmit a copy of the order of dismissal~~
5 ~~to the community program director or a designee. In a proceeding~~
6 ~~alleging a violation of mandatory supervision, if the person is not~~
7 ~~placed under a conservatorship as described in paragraph (3) of~~
8 ~~subdivision (c), or if a conservatorship is terminated, the court~~
9 ~~shall reinstate mandatory supervision and may modify the terms~~
10 ~~and conditions of supervision to include appropriate mental health~~
11 ~~treatment or refer the matter to a local mental health court, reentry~~
12 ~~court, or other collaborative justice court available for improving~~
13 ~~the mental health of the defendant.~~

14 ~~(e) If the criminal action against the defendant is dismissed, the~~
15 ~~defendant shall be released from commitment ordered under this~~
16 ~~section, but without prejudice to the initiation of proceedings that~~
17 ~~may be appropriate under the Lanterman-Petris-Short Act (Part 1~~
18 ~~(commencing with Section 5000) of Division 5 of the Welfare and~~
19 ~~Institutions Code).~~

20 ~~(f) As used in this chapter, “community program director” means~~
21 ~~the person, agency, or entity designated by the State Department~~
22 ~~of State Hospitals pursuant to Section 1605 of this code and Section~~
23 ~~4360 of the Welfare and Institutions Code.~~

24 ~~(g) For the purpose of this section, “secure treatment facility”~~
25 ~~does not include, except for State Department of State Hospitals~~
26 ~~facilities, state developmental centers, and correctional treatment~~
27 ~~facilities, any facility licensed pursuant to Chapter 2 (commencing~~
28 ~~with Section 1250) of, Chapter 3 (commencing with Section 1500)~~
29 ~~of, or Chapter 3.2 (commencing with Section 1569) of, Division~~
30 ~~2 of the Health and Safety Code, or any community board and care~~
31 ~~facility.~~

32 ~~(h) This section does not preclude a defendant from filing a~~
33 ~~petition for habeas corpus to challenge the continuing validity of~~
34 ~~an order authorizing a treatment facility or outpatient program to~~
35 ~~involuntarily administer antipsychotic medication to a person being~~
36 ~~treated as incompetent to stand trial.~~

37 *SEC. 6. Section 1370 of the Penal Code is amended to read:*

38 1370. (a) (1) (A) If the defendant is found mentally
39 competent, the criminal process shall resume, the trial on the

1 offense charged or hearing on the alleged violation shall proceed,
2 and judgment may be pronounced.

3 (B) If the defendant is found mentally incompetent, the trial,
4 the hearing on the alleged violation, or the judgment shall be
5 suspended until the person becomes mentally competent.

6 (i) The court shall order that the mentally incompetent defendant
7 be delivered by the sheriff to a State Department of State Hospitals
8 facility, as defined in Section 4100 of the Welfare and Institutions
9 Code, as directed by the State Department of State Hospitals, or
10 to any other available public or private treatment facility, including
11 a community-based residential treatment system approved by the
12 community program director, or their designee, that will promote
13 the defendant's speedy restoration to mental competence, or placed
14 on outpatient status as specified in Section 1600.

15 (ii) (I) If a defendant has been found mentally incompetent,
16 and the court has ordered commitment to a State Department of
17 State Hospitals facility as described in Section 4100 of the Welfare
18 and Institutions Code, and is not in the custody of the local sheriff,
19 the department shall inform the sheriff when a placement in a
20 facility becomes available and make reasonable efforts to
21 coordinate a delivery by the sheriff to transport the defendant to
22 the facility. If the department has made reasonable attempts for
23 90 days, starting with the date of commitment, and the defendant
24 has not been transported, as originally ordered under clause (i),
25 the department shall inform the court and sheriff in writing.

26 (II) If the sheriff has not delivered the defendant to a State
27 Department of State Hospitals facility within 90 days after the
28 department's written notice, the commitment to the State
29 Department of State Hospitals shall be automatically stayed and
30 the department may remove the defendant from the pending
31 placement list until the court notifies the department in writing
32 that the defendant is available for transport and the defendant shall
33 regain their place on the pending placement list.

34 (iii) However, if the action against the defendant who has been
35 found mentally incompetent is on a complaint charging a felony
36 offense specified in Section 290, the prosecutor shall determine
37 whether the defendant previously has been found mentally
38 incompetent to stand trial pursuant to this chapter on a charge of
39 a Section 290 offense, or whether the defendant is currently the
40 subject of a pending Section 1368 proceeding arising out of a

1 charge of a Section 290 offense. If either determination is made,
2 the prosecutor shall notify the court and defendant in writing. After
3 this notification, and opportunity for hearing, the court shall order
4 that the defendant be delivered by the sheriff to a State Department
5 of State Hospitals facility, as directed by the State Department of
6 State Hospitals, or other secure treatment facility for the care and
7 treatment of persons with a mental health disorder, unless the court
8 makes specific findings on the record that an alternative placement
9 would provide more appropriate treatment for the defendant and
10 would not pose a danger to the health and safety of others.

11 (iv) If the action against the defendant who has been found
12 mentally incompetent is on a complaint charging a felony offense
13 specified in Section 290 and the defendant has been denied bail
14 pursuant to subdivision (b) of Section 12 of Article I of the
15 California Constitution because the court has found, based upon
16 clear and convincing evidence, a substantial likelihood that the
17 person's release would result in great bodily harm to others, the
18 court shall order that the defendant be delivered by the sheriff to
19 a State Department of State Hospitals facility, as directed by the
20 State Department of State Hospitals, unless the court makes specific
21 findings on the record that an alternative placement would provide
22 more appropriate treatment for the defendant and would not pose
23 a danger to the health and safety of others.

24 (v) (I) If, at any time after the court finds that the defendant is
25 mentally incompetent and before the defendant is transported to
26 a facility pursuant to this section, the court is provided with any
27 information that the defendant may benefit from diversion pursuant
28 to Chapter 2.8A (commencing with Section 1001.35) of Title 6,
29 the court may make a finding that the defendant is an appropriate
30 candidate for diversion.

31 (II) Notwithstanding subclause (I), if a defendant is found
32 mentally incompetent and is transferred to a facility described in
33 Section 4361.6 of the Welfare and Institutions Code, the court
34 may, at any time upon receiving any information that the defendant
35 may benefit from diversion pursuant to Chapter 2.8A (commencing
36 with Section 1001.35) of Title 6, make a finding that the defendant
37 is an appropriate candidate for diversion.

38 (vi) If a defendant is found by the court to be an appropriate
39 candidate for diversion pursuant to clause (v), the defendant's
40 eligibility shall be determined pursuant to Section 1001.36. A

1 defendant granted diversion may participate for the lesser of the
2 period specified in paragraph (1) of subdivision (c) or the
3 applicable period described in subparagraph (C) of paragraph (1)
4 of subdivision (f) of Section 1001.36. If, during that period, the
5 court determines that criminal proceedings should be reinstated
6 pursuant to subdivision (g) of Section 1001.36, the court shall,
7 pursuant to Section 1369, appoint a psychiatrist, licensed
8 psychologist, or any other expert the court may deem appropriate,
9 to determine the defendant's competence to stand trial.

10 (vii) Upon the dismissal of charges at the conclusion of the
11 period of diversion, pursuant to subdivision (h) of Section 1001.36,
12 a defendant shall no longer be deemed incompetent to stand trial
13 pursuant to this section.

14 (viii) The clerk of the court shall notify the Department of
15 Justice, in writing, of a finding of mental incompetence with respect
16 to a defendant who is subject to clause (iii) or (iv) for inclusion in
17 the defendant's state summary criminal history information.

18 (C) Upon the filing of a certificate of restoration to competence,
19 the court shall order that the defendant be returned to court in
20 accordance with Section 1372. The court shall transmit a copy of
21 its order to the community program director or a designee.

22 (D) A defendant charged with a violent felony may not be
23 delivered to a State Department of State Hospitals facility or
24 treatment facility pursuant to this subdivision unless the State
25 Department of State Hospitals facility or treatment facility has a
26 secured perimeter or a locked and controlled treatment facility,
27 and the judge determines that the public safety will be protected.

28 (E) For purposes of this paragraph, "violent felony" means an
29 offense specified in subdivision (c) of Section 667.5.

30 (F) A defendant charged with a violent felony may be placed
31 on outpatient status, as specified in Section 1600, only if the court
32 finds that the placement will not pose a danger to the health or
33 safety of others. If the court places a defendant charged with a
34 violent felony on outpatient status, as specified in Section 1600,
35 the court shall serve copies of the placement order on defense
36 counsel, the sheriff in the county where the defendant will be
37 placed, and the district attorney for the county in which the violent
38 felony charges are pending against the defendant.

39 (G) If, at any time after the court has declared a defendant
40 incompetent to stand trial pursuant to this section, counsel for the

1 defendant or a jail medical or mental health staff provider provides
2 the court with substantial evidence that the defendant's psychiatric
3 symptoms have changed to such a degree as to create a doubt in
4 the mind of the judge as to the defendant's current mental
5 incompetence, the court may appoint a psychiatrist or a licensed
6 psychologist to opine as to whether the defendant has regained
7 competence. If, in the opinion of that expert, the defendant has
8 regained competence, the court shall proceed as if a certificate of
9 restoration of competence has been returned pursuant to paragraph
10 (1) of subdivision (a) of Section 1372.

11 (H) (i) The State Department of State Hospitals may, pursuant
12 to Section 4335.2 of the Welfare and Institutions Code, conduct
13 an evaluation of the defendant in county custody to determine any
14 of the following:

15 (I) The defendant has regained competence.

16 (II) There is no substantial likelihood that the defendant will
17 regain competence in the foreseeable future.

18 (III) The defendant should be referred to the county for further
19 evaluation for potential participation in a county diversion program,
20 if one exists, or to another outpatient treatment program.

21 (ii) If, in the opinion of the department's expert, the defendant
22 has regained competence, the court shall proceed as if a certificate
23 of restoration of competence has been returned pursuant to
24 paragraph (1) of subdivision (a) of Section 1372.

25 (iii) If, in the opinion of the department's expert, there is no
26 substantial likelihood that the defendant will regain mental
27 competence in the foreseeable future, the committing court shall
28 proceed pursuant to paragraph~~(2)~~ (3) of subdivision (c) no later
29 than 10 days following receipt of the report.

30 (2) Prior to making the order directing that the defendant be
31 committed to the State Department of State Hospitals or other
32 treatment facility or placed on outpatient status, the court shall
33 proceed as follows:

34 (A) (i) The court shall order the community program director
35 or a designee to evaluate the defendant and to submit to the court
36 within 15 judicial days of the order a written recommendation as
37 to whether the defendant should be required to undergo outpatient
38 treatment, or be committed to the State Department of State
39 Hospitals or to any other treatment facility. A person shall not be
40 admitted to a State Department of State Hospitals facility or other

1 treatment facility or placed on outpatient status under this section
2 without having been evaluated by the community program director
3 or a designee. The community program director or designee shall
4 evaluate the appropriate placement for the defendant between a
5 State Department of State Hospitals facility or the
6 community-based residential treatment system based upon
7 guidelines provided by the State Department of State Hospitals.

8 (ii) A defendant shall first be considered for placement in an
9 outpatient treatment program, a community treatment program, or
10 a diversion program, if any such program is available, unless a
11 court, based upon the recommendation of the community program
12 director or their designee, finds that either the clinical needs of the
13 defendant or the risk to community safety, warrant placement in
14 a State Department of State Hospitals facility.

15 (B) The court shall hear and determine whether the defendant
16 lacks capacity to make decisions regarding the administration of
17 antipsychotic medication. The court shall consider opinions in the
18 reports prepared pursuant to subdivision (a) of Section 1369, as
19 applicable to the issue of whether the defendant lacks capacity to
20 make decisions regarding the administration of antipsychotic
21 medication, and shall proceed as follows:

22 (i) The court shall hear and determine whether any of the
23 following is true:

24 (I) Based upon the opinion of the psychiatrist or licensed
25 psychologist offered to the court pursuant to subparagraph (A) of
26 paragraph (2) of subdivision (a) of Section 1369, the defendant
27 lacks capacity to make decisions regarding antipsychotic
28 medication, the defendant's mental disorder requires medical
29 treatment with antipsychotic medication, and, if the defendant's
30 mental disorder is not treated with antipsychotic medication, it is
31 probable that serious harm to the physical or mental health of the
32 defendant will result. Probability of serious harm to the physical
33 or mental health of the defendant requires evidence that the
34 defendant is presently suffering adverse effects to their physical
35 or mental health, or the defendant has previously suffered these
36 effects as a result of a mental disorder and their condition is
37 substantially deteriorating. The fact that a defendant has a diagnosis
38 of a mental disorder does not alone establish probability of serious
39 harm to the physical or mental health of the defendant.

1 (II) Based upon the opinion of the psychiatrist or licensed
2 psychologist offered to the court pursuant to subparagraph (A) of
3 paragraph (2) of subdivision (a) of Section 1369, the defendant is
4 a danger to others, in that the defendant has inflicted, attempted
5 to inflict, or made a serious threat of inflicting substantial physical
6 harm on another while in custody, or the defendant had inflicted,
7 attempted to inflict, or made a serious threat of inflicting substantial
8 physical harm on another that resulted in the defendant being taken
9 into custody, and the defendant presents, as a result of mental
10 disorder or mental defect, a demonstrated danger of inflicting
11 substantial physical harm on others. Demonstrated danger may be
12 based on an assessment of the defendant's present mental condition,
13 including a consideration of past behavior of the defendant within
14 six years prior to the time the defendant last attempted to inflict,
15 inflicted, or threatened to inflict substantial physical harm on
16 another, and other relevant evidence.

17 (III) The people have charged the defendant with a serious crime
18 against the person or property, and based upon the opinion of the
19 psychiatrist offered to the court pursuant to subparagraph (C) of
20 paragraph (2) of subdivision (a) of Section 1369, the involuntary
21 administration of antipsychotic medication is substantially likely
22 to render the defendant competent to stand trial, the medication is
23 unlikely to have side effects that interfere with the defendant's
24 ability to understand the nature of the criminal proceedings or to
25 assist counsel in the conduct of a defense in a reasonable manner,
26 less intrusive treatments are unlikely to have substantially the same
27 results, and antipsychotic medication is medically necessary and
28 appropriate in light of their medical condition.

29 (ii) (I) If the court finds the conditions described in subclause
30 (I) or (II) of clause (i) to be true, and if pursuant to the opinion
31 offered to the court pursuant to paragraph (2) of subdivision (a)
32 of Section 1369, a psychiatrist has opined that treatment with
33 antipsychotic medications is appropriate for the defendant, the
34 court shall issue an order authorizing the administration of
35 antipsychotic medication as needed, including on an involuntary
36 basis, to be administered under the direction and supervision of a
37 licensed psychiatrist.

38 (II) If the court finds the conditions described in subclause (I)
39 or (II) of clause (i) to be true, and if pursuant to the opinion offered
40 to the court pursuant to paragraph (2) of subdivision (a) of Section

1 1369, a licensed psychologist has opined that treatment with
2 antipsychotic medication may be appropriate for the defendant,
3 the court shall issue an order authorizing treatment by a licensed
4 psychiatrist on an involuntary basis. That treatment may include
5 the administration of antipsychotic medication as needed, to be
6 administered under the direction and supervision of a licensed
7 psychiatrist.

8 (III) If the court finds the conditions described in subclause (III)
9 of clause (i) to be true, and if pursuant to the opinion offered to
10 the court pursuant to paragraph (2) of subdivision (a) of Section
11 1369, a psychiatrist has opined that it is appropriate to treat the
12 defendant with antipsychotic medication, the court shall issue an
13 order authorizing the administration of antipsychotic medication
14 as needed, including on an involuntary basis, to be administered
15 under the direction and supervision of a licensed psychiatrist.

16 (iii) An order authorizing involuntary administration of
17 antipsychotic medication to the defendant when and as prescribed
18 by the defendant’s treating psychiatrist at any facility housing the
19 defendant for purposes of this chapter, including a county jail,
20 shall remain in effect when the defendant returns to county custody
21 pursuant to subparagraph (A) of paragraph (1) of subdivision (b)
22 or paragraph (1) of subdivision (c), or pursuant to subparagraph
23 (C) of paragraph (3) of subdivision (a) of Section 1372, but shall
24 be valid for no more than one year, pursuant to subparagraph (A)
25 of paragraph (7). The court shall not order involuntary
26 administration of psychotropic medication under subclause (III)
27 of clause (i) unless the court has first found that the defendant does
28 not meet the criteria for involuntary administration of psychotropic
29 medication under subclause (I) of clause (i) and does not meet the
30 criteria under subclause (II) of clause (i).

31 (iv) In all cases, the treating hospital, county jail, facility, or
32 program may administer medically appropriate antipsychotic
33 medication prescribed by a psychiatrist in an emergency as
34 described in subdivision (m) of Section 5008 of the Welfare and
35 Institutions Code.

36 (v) If the court has determined that the defendant has the
37 capacity to make decisions regarding antipsychotic medication,
38 and if the defendant, with advice of their counsel, consents, the
39 court order of commitment shall include confirmation that
40 antipsychotic medication may be given to the defendant as

1 prescribed by a treating psychiatrist pursuant to the defendant's
2 consent. The commitment order shall also indicate that, if the
3 defendant withdraws consent for antipsychotic medication, after
4 the treating psychiatrist complies with the provisions of
5 subparagraph (C), the defendant shall be returned to court for a
6 hearing in accordance with subparagraphs (C) and (D) regarding
7 whether antipsychotic medication shall be administered
8 involuntarily.

9 (vi) If the court has determined that the defendant has the
10 capacity to make decisions regarding antipsychotic medication
11 and if the defendant, with advice from their counsel, does not
12 consent, the court order for commitment shall indicate that, after
13 the treating psychiatrist complies with the provisions of
14 subparagraph (C), the defendant shall be returned to court for a
15 hearing in accordance with subparagraphs (C) and (D) regarding
16 whether antipsychotic medication shall be administered
17 involuntarily.

18 (vii) A report made pursuant to paragraph (1) of subdivision (b)
19 shall include a description of antipsychotic medication administered
20 to the defendant and its effects and side effects, including effects
21 on the defendant's appearance or behavior that would affect the
22 defendant's ability to understand the nature of the criminal
23 proceedings or to assist counsel in the conduct of a defense in a
24 reasonable manner. During the time the defendant is confined in
25 a State Department of State Hospitals facility or other treatment
26 facility or placed on outpatient status, either the defendant or the
27 people may request that the court review any order made pursuant
28 to this subdivision. The defendant, to the same extent enjoyed by
29 other patients in the State Department of State Hospitals facility
30 or other treatment facility, shall have the right to contact the
31 patients' rights advocate regarding the defendant's rights under
32 this section.

33 (C) If the defendant consented to antipsychotic medication as
34 described in clause (iv) of subparagraph (B), but subsequently
35 withdraws their consent, or, if involuntary antipsychotic medication
36 was not ordered pursuant to clause (v) of subparagraph (B), and
37 the treating psychiatrist determines that antipsychotic medication
38 has become medically necessary and appropriate, the treating
39 psychiatrist shall make efforts to obtain informed consent from
40 the defendant for antipsychotic medication. If informed consent

1 is not obtained from the defendant, and the treating psychiatrist is
2 of the opinion that the defendant lacks capacity to make decisions
3 regarding antipsychotic medication based on the conditions
4 described in subclause (I) or (II) of clause (i) of subparagraph (B),
5 the treating psychiatrist shall certify whether the lack of capacity
6 and any applicable conditions described above exist. That
7 certification shall contain an assessment of the current mental
8 status of the defendant and the opinion of the treating psychiatrist
9 that involuntary antipsychotic medication has become medically
10 necessary and appropriate.

11 (D) (i) If the treating psychiatrist certifies that antipsychotic
12 medication has become medically necessary and appropriate
13 pursuant to subparagraph (C), antipsychotic medication may be
14 administered to the defendant for not more than 21 days, provided,
15 however, that, within 72 hours of the certification, the defendant
16 is provided a medication review hearing before an administrative
17 law judge to be conducted at the facility where the defendant is
18 receiving treatment. The treating psychiatrist shall present the case
19 for the certification for involuntary treatment and the defendant
20 shall be represented by an attorney or a patients' rights advocate.
21 The attorney or patients' rights advocate shall be appointed to meet
22 with the defendant no later than one day prior to the medication
23 review hearing to review the defendant's rights at the medication
24 review hearing, discuss the process, answer questions or concerns
25 regarding involuntary medication or the hearing, assist the
26 defendant in preparing for the hearing and advocating for the
27 defendant's interests at the hearing, review the panel's final
28 determination following the hearing, advise the defendant of their
29 right to judicial review of the panel's decision, and provide the
30 defendant with referral information for legal advice on the subject.
31 The defendant shall also have the following rights with respect to
32 the medication review hearing:

- 33 (I) To be given timely access to the defendant's records.
- 34 (II) To be present at the hearing, unless the defendant waives
35 that right.
- 36 (III) To present evidence at the hearing.
- 37 (IV) To question persons presenting evidence supporting
38 involuntary medication.
- 39 (V) To make reasonable requests for attendance of witnesses
40 on the defendant's behalf.

1 (VI) To a hearing conducted in an impartial and informal
2 manner.

3 (ii) If the administrative law judge determines that the defendant
4 either meets the criteria specified in subclause (I) of clause (i) of
5 subparagraph (B), or meets the criteria specified in subclause (II)
6 of clause (i) of subparagraph (B), antipsychotic medication may
7 continue to be administered to the defendant for the 21-day
8 certification period. Concurrently with the treating psychiatrist's
9 certification, the treating psychiatrist shall file a copy of the
10 certification and a petition with the court for issuance of an order
11 to administer antipsychotic medication beyond the 21-day
12 certification period. For purposes of this subparagraph, the treating
13 psychiatrist shall not be required to pay or deposit any fee for the
14 filing of the petition or other document or paper related to the
15 petition.

16 (iii) If the administrative law judge disagrees with the
17 certification, medication may not be administered involuntarily
18 until the court determines that antipsychotic medication should be
19 administered pursuant to this section.

20 (iv) The court shall provide notice to the prosecuting attorney
21 and to the attorney representing the defendant, and shall hold a
22 hearing, no later than 18 days from the date of the certification, to
23 determine whether antipsychotic medication should be ordered
24 beyond the certification period.

25 (v) If, as a result of the hearing, the court determines that
26 antipsychotic medication should be administered beyond the
27 certification period, the court shall issue an order authorizing the
28 administration of that medication.

29 (vi) The court shall render its decision on the petition and issue
30 its order no later than three calendar days after the hearing and, in
31 any event, no later than the expiration of the 21-day certification
32 period.

33 (vii) If the administrative law judge upholds the certification
34 pursuant to clause (ii), the court may, for a period not to exceed
35 14 days, extend the certification and continue the hearing pursuant
36 to stipulation between the parties or upon a finding of good cause.
37 In determining good cause, the court may review the petition filed
38 with the court, the administrative law judge's order, and any
39 additional testimony needed by the court to determine if it is

1 appropriate to continue medication beyond the 21-day certification
2 and for a period of up to 14 days.

3 (viii) The district attorney, county counsel, or representative of
4 a facility where a defendant found incompetent to stand trial is
5 committed may petition the court for an order to administer
6 involuntary medication pursuant to the criteria set forth in
7 subclauses (II) and (III) of clause (i) of subparagraph (B). The
8 order is reviewable as provided in paragraph (7).

9 (3) (A) When the court orders that the defendant be committed
10 to a State Department of State Hospitals facility or other public or
11 private treatment facility, the court shall provide copies of the
12 following documents prior to the admission of the defendant to
13 the State Department of State Hospitals or other treatment facility
14 where the defendant is to be committed:

15 (i) The commitment order, which shall include a specification
16 of the charges, an assessment of whether involuntary treatment
17 with antipsychotic medications is warranted, and any orders by
18 the court, pursuant to subparagraph (B) of paragraph (2),
19 authorizing involuntary treatment with antipsychotic medications.

20 (ii) A computation or statement setting forth the maximum term
21 of commitment in accordance with subdivision (c).

22 (iii) (I) A computation or statement setting forth the amount of
23 credit for time served, if any, to be deducted from the maximum
24 term of commitment.

25 (II) If a certificate of restoration of competency was filed with
26 the court pursuant to Section 1372 and the court subsequently
27 rejected the certification, a copy of the court order or minute order
28 rejecting the certification shall be provided. The court order shall
29 include a new computation or statement setting forth the amount
30 of credit for time served, if any, to be deducted from the
31 defendant's maximum term of commitment based on the court's
32 rejection of the certification.

33 (iv) State summary criminal history information.

34 (v) Jail classification records for the defendant's current
35 incarceration.

36 (vi) Arrest reports prepared by the police department or other
37 law enforcement agency.

38 (vii) Court-ordered psychiatric examination or evaluation
39 reports.

1 (viii) The community program director's placement
2 recommendation report.

3 (ix) Records of a finding of mental incompetence pursuant to
4 this chapter arising out of a complaint charging a felony offense
5 specified in Section 290 or a pending Section 1368 proceeding
6 arising out of a charge of a Section 290 offense.

7 (x) Medical records, including jail mental health records.

8 (B) If a defendant is committed to a State Department of State
9 Hospitals facility, and the department determines that additional
10 medical or mental health treatment records are needed for
11 continuity of care, any private or public entity holding medical or
12 mental health treatment records of that defendant shall release
13 those records upon receiving a written request from the State
14 Department of State Hospitals within 10 calendar days after the
15 request. The private or public entity holding the medical or mental
16 health treatment records shall comply with all applicable federal
17 and state privacy laws prior to disclosure. The State Department
18 of State Hospitals shall not release records obtained during the
19 admission process under this subdivision, pursuant to Section
20 1798.68 of the Civil Code, or subdivision (b) of Section 5328 of
21 the Welfare and Institutions Code.

22 (4) When the defendant is committed to a treatment facility
23 pursuant to clause (i) of subparagraph (B) of paragraph (1) or the
24 court makes the findings specified in clause (iii) or (iv) of
25 subparagraph (B) of paragraph (1) to assign the defendant to a
26 treatment facility other than a State Department of State Hospitals
27 facility or other secure treatment facility, the court shall order that
28 notice be given to the appropriate law enforcement agency or
29 agencies having local jurisdiction at the placement facility of a
30 finding of mental incompetence pursuant to this chapter arising
31 out of a charge of a Section 290 offense.

32 (5) When directing that the defendant be confined in a State
33 Department of State Hospitals facility pursuant to this subdivision,
34 the court shall commit the defendant to the State Department of
35 State Hospitals.

36 (6) (A) If the defendant is committed or transferred to the State
37 Department of State Hospitals pursuant to this section, the court
38 may, upon receiving the written recommendation of the medical
39 director of the State Department of State Hospitals facility and the
40 community program director that the defendant be transferred to

1 a public or private treatment facility approved by the community
2 program director, order the defendant transferred to that facility.
3 If the defendant is committed or transferred to a public or private
4 treatment facility approved by the community program director,
5 the court may, upon receiving the written recommendation of the
6 community program director, transfer the defendant to the State
7 Department of State Hospitals or to another public or private
8 treatment facility approved by the community program director.
9 In the event of dismissal of the criminal charges before the
10 defendant recovers competence, the person shall be subject to the
11 applicable provisions of the Lanterman-Petris-Short Act (Part 1
12 (commencing with Section 5000) of Division 5 of the Welfare and
13 Institutions Code). If either the defendant or the prosecutor chooses
14 to contest either kind of order of transfer, a petition may be filed
15 in the court for a hearing, which shall be held if the court
16 determines that sufficient grounds exist. At the hearing, the
17 prosecuting attorney or the defendant may present evidence bearing
18 on the order of transfer. The court shall use the same standards as
19 are used in conducting probation revocation hearings pursuant to
20 Section 1203.2.

21 Prior to making an order for transfer under this section, the court
22 shall notify the defendant, the attorney of record for the defendant,
23 the prosecuting attorney, and the community program director or
24 a designee.

25 (B) If the defendant is initially committed to a State Department
26 of State Hospitals facility or secure treatment facility pursuant to
27 clause (iii) or (iv) of subparagraph (B) of paragraph (1) and is
28 subsequently transferred to any other facility, copies of the
29 documents specified in paragraph (3) shall be electronically
30 transferred or taken with the defendant to each subsequent facility
31 to which the defendant is transferred. The transferring facility shall
32 also notify the appropriate law enforcement agency or agencies
33 having local jurisdiction at the site of the new facility that the
34 defendant is a person subject to clause (iii) or (iv) of subparagraph
35 (B) of paragraph (1).

36 (7) (A) An order by the court authorizing involuntary
37 medication of the defendant shall be valid for no more than one
38 year. The court shall review the order at the time of the review of
39 the initial report and the six-month progress reports pursuant to
40 paragraph (1) of subdivision (b) to determine if the grounds for

1 the authorization remain. In the review, the court shall consider
2 the reports of the treating psychiatrist or psychiatrists and the
3 defendant's patients' rights advocate or attorney. The court may
4 require testimony from the treating psychiatrist and the patients'
5 rights advocate or attorney, if necessary. The court may continue
6 the order authorizing involuntary medication for up to another six
7 months, or vacate the order, or make any other appropriate order.

8 (B) Within 60 days before the expiration of the one-year
9 involuntary medication order, the district attorney, county counsel,
10 or representative of any facility where a defendant found
11 incompetent to stand trial is committed may petition the committing
12 court for a renewal, subject to the same conditions and
13 requirements as in subparagraph (A). The petition shall include
14 the basis for involuntary medication set forth in clause (i) of
15 subparagraph (B) of paragraph (2). Notice of the petition shall be
16 provided to the defendant, the defendant's attorney, and the district
17 attorney. The court shall hear and determine whether the defendant
18 continues to meet the criteria set forth in clause (i) of subparagraph
19 (B) of paragraph (2). The hearing on a petition to renew an order
20 for involuntary medication shall be conducted prior to the
21 expiration of the current order.

22 (8) For purposes of subparagraph (D) of paragraph (2) and
23 paragraph (7), if the treating psychiatrist determines that there is
24 a need, based on preserving their rapport with the defendant or
25 preventing harm, the treating psychiatrist may request that the
26 facility medical director designate another psychiatrist to act in
27 the place of the treating psychiatrist. If the medical director of the
28 facility designates another psychiatrist to act pursuant to this
29 paragraph, the treating psychiatrist shall brief the acting psychiatrist
30 of the relevant facts of the case and the acting psychiatrist shall
31 examine the defendant prior to the hearing.

32 (b) (1) Within 90 days after a commitment made pursuant to
33 subdivision (a), the medical director of the State Department of
34 State Hospitals facility or other treatment facility to which the
35 defendant is confined shall make a written report to the court and
36 the community program director for the county or region of
37 commitment, or a designee, concerning the defendant's progress
38 toward recovery of mental competence and whether the
39 administration of antipsychotic medication remains necessary.

1 If the defendant is in county custody, the county jail shall provide
2 access to the defendant for purposes of the State Department of
3 State Hospitals conducting an evaluation of the defendant pursuant
4 to Section 4335.2 of the Welfare and Institutions Code. Based
5 upon this evaluation, the State Department of State Hospitals may
6 make a written report to the court within 90 days of a commitment
7 made pursuant to subdivision (a) concerning the defendant's
8 progress toward recovery of mental ~~incompetence~~ *competence* and
9 whether the administration of antipsychotic medication is
10 necessary. If the defendant remains in county custody after the
11 initial 90-day report, the State Department of State Hospitals may
12 conduct an evaluation of the defendant pursuant to Section 4335.2
13 of the Welfare and Institutions Code and make a written report to
14 the court concerning the defendant's progress toward recovery of
15 mental ~~incompetence~~ *competence* and whether the administration
16 of antipsychotic medication is necessary.

17 If the defendant is on outpatient status, the outpatient treatment
18 staff shall make a written report to the community program director
19 concerning the defendant's progress toward recovery of mental
20 competence. Within 90 days of placement on outpatient status, the
21 community program director shall report to the court on this matter.
22 If the defendant has not recovered mental competence, but the
23 report discloses a substantial likelihood that the defendant will
24 regain mental competence in the foreseeable future, the defendant
25 shall remain in the State Department of State Hospitals facility or
26 other treatment facility or on outpatient status. Thereafter, at
27 six-month intervals or until the defendant becomes mentally
28 competent, if the defendant is confined in a treatment facility, the
29 medical director of the State Department of State Hospitals facility
30 or person in charge of the facility shall report, in writing, to the
31 court and the community program director or a designee regarding
32 the defendant's progress toward recovery of mental competence
33 and whether the administration of antipsychotic medication remains
34 necessary. If the defendant is on outpatient status, after the initial
35 90-day report, the outpatient treatment staff shall report to the
36 community program director on the defendant's progress toward
37 recovery, and the community program director shall report to the
38 court on this matter at six-month intervals. A copy of these reports
39 shall be provided to the prosecutor and defense counsel by the
40 court.

1 (A) If the report indicates that there is no substantial likelihood
2 that the defendant will regain mental competence in the foreseeable
3 future, custody of the defendant shall be transferred without delay
4 to the committing county and shall remain with the county until
5 further order of the court. The defendant shall be returned to the
6 court for proceedings pursuant to paragraph ~~(2)~~ (3) of subdivision
7 (c) no later than 10 days following receipt of the report. The court
8 shall not order the defendant returned to the custody of the State
9 Department of State Hospitals under the same commitment. The
10 court shall transmit a copy of its order to the community program
11 director or a designee.

12 (B) If the report indicates that there is no substantial likelihood
13 that the defendant will regain mental competence in the foreseeable
14 future, the medical director of the State Department of State
15 Hospitals facility or other treatment facility to which the defendant
16 is confined shall do both of the following:

17 (i) Promptly notify and provide a copy of the report to the
18 defense counsel and the district attorney.

19 (ii) Provide a separate notification, in compliance with
20 applicable privacy laws, to the committing county's sheriff that
21 immediate transportation will be needed for the defendant pursuant
22 to subparagraph (A).

23 (C) If a county does not take custody of a defendant committed
24 to the State Department of State Hospitals within 10 calendar days
25 following notification made pursuant to clause (ii) of subparagraph
26 (B), the county shall be charged the daily rate for a state hospital
27 bed, as established by the State Department of State Hospitals.

28 (2) The reports made pursuant to paragraph (1) concerning the
29 defendant's progress toward regaining competency shall also
30 consider the issue of involuntary medication. Each report shall
31 include, but not be limited to, all of the following:

32 (A) Whether or not the defendant has the capacity to make
33 decisions concerning antipsychotic medication.

34 (B) If the defendant lacks capacity to make decisions concerning
35 antipsychotic medication, whether the defendant risks serious harm
36 to their physical or mental health if not treated with antipsychotic
37 medication.

38 (C) Whether or not the defendant presents a danger to others if
39 the defendant is not treated with antipsychotic medication.

1 (D) Whether the defendant has a mental disorder for which
2 medications are the only effective treatment.

3 (E) Whether there are any side effects from the medication
4 currently being experienced by the defendant that would interfere
5 with the defendant’s ability to collaborate with counsel.

6 (F) Whether there are any effective alternatives to medication.

7 (G) How quickly the medication is likely to bring the defendant
8 to competency.

9 (H) Whether the treatment plan includes methods other than
10 medication to restore the defendant to competency.

11 (I) A statement, if applicable, that no medication is likely to
12 restore the defendant to competency.

13 (3) After reviewing the reports, the court shall determine if
14 grounds for the involuntary administration of antipsychotic
15 medication exist, whether or not an order was issued at the time
16 of commitment, and shall do one of the following:

17 (A) If the original grounds for involuntary medication still exist,
18 any order authorizing the treating facility to involuntarily
19 administer antipsychotic medication to the defendant shall remain
20 in effect.

21 (B) If the original grounds for involuntary medication no longer
22 exist, and there is no other basis for involuntary administration of
23 antipsychotic medication, any order for the involuntary
24 administration of antipsychotic medication shall be vacated.

25 (C) If the original grounds for involuntary medication no longer
26 exist, and the report states that there is another basis for involuntary
27 administration of antipsychotic medication, the court shall
28 determine whether to vacate the order or issue a new order for the
29 involuntary administration of antipsychotic medication. The court
30 shall consider the opinions in reports submitted pursuant to
31 paragraph (1) of subdivision (b), including any opinions rendered
32 pursuant to Section 4335.2 of the Welfare and Institutions Code.
33 The court may, upon a showing of good cause, set a hearing within
34 21 days to determine whether the order for the involuntary
35 administration of antipsychotic medication shall be vacated or
36 whether a new order for the involuntary administration of
37 antipsychotic medication shall be issued. The hearing shall proceed
38 as set forth in subparagraph (B) of paragraph (2) of subdivision
39 (a). The court shall require witness testimony to occur remotely,
40 including clinical testimony pursuant to subdivision (d) of Section

1 4335.2 of the Welfare and Institutions Code. In-person witness
2 testimony shall only be allowed upon a court's finding of good
3 cause.

4 (D) If the report states a basis for involuntary administration of
5 antipsychotic medication and the court did not issue such order at
6 the time of commitment, the court shall determine whether to issue
7 an order for the involuntary administration of antipsychotic
8 medication. The court shall consider the opinions in reports
9 submitted pursuant to paragraph (1) of subdivision (b), including
10 any opinions rendered pursuant to Section 4335.2 of the Welfare
11 and Institutions Code. The court may, upon a finding of good
12 cause, set a hearing within 21 days to determine whether an order
13 for the involuntary administration of antipsychotic medication
14 shall be issued. The hearing shall proceed as set forth in
15 subparagraph (B) of paragraph (2) of subdivision (a). The court
16 shall require witness testimony to occur remotely, including clinical
17 testimony pursuant to subdivision (d) of Section 4335.2 of the
18 Welfare and Institutions Code. In-person witness testimony shall
19 only be allowed upon a court's finding of good cause.

20 (E) This paragraph also applies to recommendations submitted
21 pursuant to subdivision (e) of Section 1372, when a
22 recommendation is included as to whether an order for the
23 involuntary administration of antipsychotic medications should
24 be extended or issued.

25 (4) If it is determined by the court that treatment for the
26 defendant's mental impairment is not being conducted, the
27 defendant shall be returned to the committing court, and, if the
28 defendant is not in county custody, returned to the custody of the
29 county. The court shall transmit a copy of its order to the
30 community program director or a designee.

31 (5) At each review by the court specified in this subdivision,
32 the court shall determine if the security level of housing and
33 treatment is appropriate and may make an order in accordance
34 with its determination. If the court determines that the defendant
35 shall continue to be treated in the State Department of State
36 Hospitals facility or on an outpatient basis, the court shall
37 determine issues concerning administration of antipsychotic
38 medication, as set forth in subparagraph (B) of paragraph (2) of
39 subdivision (a).

1 (c) (1) At the end of two years from the date of commitment
2 or a period of commitment equal to the maximum term of
3 imprisonment provided by law for the most serious offense charged
4 in the information, indictment, or complaint, or the maximum term
5 of imprisonment provided by law for a violation of probation or
6 mandatory supervision, whichever is shorter, but no later than 90
7 days prior to the expiration of the defendant's term of commitment,
8 a defendant who has not recovered mental competence shall be
9 returned to the committing court, and custody of the defendant
10 shall be transferred without delay to the committing county and
11 shall remain with the county until further order of the court. The
12 court shall not order the defendant returned to the custody of the
13 State Department of State Hospitals under the same commitment.
14 The court shall notify the community program director or a
15 designee of the return and of any resulting court orders.

16 (2) (A) The medical director of the State Department of State
17 Hospitals facility or other treatment facility to which the defendant
18 is confined shall provide notification, in compliance with applicable
19 privacy laws, to the committing county's sheriff that immediate
20 transportation will be needed for the defendant pursuant to
21 paragraph (1).

22 (B) If a county does not take custody of a defendant committed
23 to the State Department of State Hospitals within 10 calendar days
24 following notification pursuant to subparagraph (A), the county
25 shall be charged the daily rate for a state hospital bed, as
26 established by the State Department of State Hospitals.

27 (3) Whenever a defendant is returned to the court pursuant to
28 paragraph (1) or (4) of subdivision (b) or paragraph (1) of this
29 subdivision and it appears to the court that the defendant is gravely
30 disabled, as defined in subparagraph (A) or (B) of paragraph (1)
31 of subdivision (h) of Section 5008 of the Welfare and Institutions
32 Code, the court shall order the conservatorship investigator of the
33 county of commitment of the defendant to initiate conservatorship
34 proceedings for the defendant pursuant to Chapter 3 (commencing
35 with Section 5350) of Part 1 of Division 5 of the Welfare and
36 Institutions Code. Hearings required in the conservatorship
37 proceedings shall be held in the superior court in the county that
38 ordered the commitment. The court shall transmit a copy of the
39 order directing initiation of conservatorship proceedings to the
40 community program director or a designee, the sheriff and the

1 district attorney of the county in which criminal charges are
2 pending, and the defendant's counsel of record. The court shall
3 notify the community program director or a designee, the sheriff
4 and district attorney of the county in which criminal charges are
5 pending, and the defendant's counsel of record of the outcome of
6 the conservatorship proceedings.

7 (4) If a change in placement is proposed for a defendant who
8 is committed pursuant to subparagraph (A) or (B) of paragraph
9 (1) of subdivision (h) of Section 5008 of the Welfare and
10 Institutions Code, the court shall provide notice and an opportunity
11 to be heard with respect to the proposed placement of the defendant
12 to the sheriff and the district attorney of the county in which the
13 criminal charges or revocation proceedings are pending.

14 (5) If the defendant is confined in a treatment facility, a copy
15 of any report to the committing court regarding the defendant's
16 progress toward recovery of mental competence shall be provided
17 by the committing court to the prosecutor and to the defense
18 counsel.

19 (d) With the exception of proceedings alleging a violation of
20 mandatory supervision, the criminal action remains subject to
21 dismissal pursuant to Section 1385. If the criminal action is
22 dismissed, the court shall transmit a copy of the order of dismissal
23 to the community program director or a designee. In a proceeding
24 alleging a violation of mandatory supervision, if the person is not
25 placed under a conservatorship as described in paragraph (3) of
26 subdivision (c), or if a conservatorship is terminated, the court
27 shall reinstate mandatory supervision and may modify the terms
28 and conditions of supervision to include appropriate mental health
29 treatment or refer the matter to a local mental health court, reentry
30 court, or other collaborative justice court available for improving
31 the mental health of the defendant.

32 (e) If the criminal action against the defendant is dismissed, the
33 defendant shall be released from commitment ordered under this
34 section, but without prejudice to the initiation of proceedings that
35 may be appropriate under the Lanterman-Petris-Short Act (Part 1
36 commencing with Section 5000) of Division 5 of the Welfare and
37 Institutions Code).

38 (f) As used in this chapter, "community program director" means
39 the person, agency, or entity designated by the State Department

1 of State Hospitals pursuant to Section 1605 of this code and Section
2 4360 of the Welfare and Institutions Code.

3 (g) For the purpose of this section, “secure treatment facility”
4 does not include, except for State Department of State Hospitals
5 facilities, state developmental centers, and correctional treatment
6 facilities, any facility licensed pursuant to Chapter 2 (commencing
7 with Section 1250) of, Chapter 3 (commencing with Section 1500)
8 of, or Chapter 3.2 (commencing with Section 1569) of, Division
9 2 of the Health and Safety Code, or any community board and care
10 facility.

11 (h) This section does not preclude a defendant from filing a
12 petition for habeas corpus to challenge the continuing validity of
13 an order authorizing a treatment facility or outpatient program to
14 involuntarily administer antipsychotic medication to a person being
15 treated as incompetent to stand trial.

16 SEC. 7. Section 1463.5 of the Penal Code is repealed.

17 SEC. 8. Section 1473 of the Penal Code is amended to read:

18 1473. (a) A person unlawfully imprisoned or restrained of
19 their liberty, under any pretense, may prosecute a writ of habeas
20 corpus to inquire into the cause of the imprisonment or restraint.

21 (b) (1) A writ of habeas corpus may be prosecuted for, but not
22 limited to, the following reasons:

23 (A) False evidence that is material on the issue of guilt or
24 punishment was introduced against a person at a hearing or trial
25 relating to the person’s incarceration.

26 (B) False physical evidence, believed by a person to be factual,
27 probative, or material on the issue of guilt, which was known by
28 the person at the time of entering a plea of guilty, which was a
29 material factor directly related to the plea of guilty by the person.

30 (C) (i) New evidence exists that is presented without substantial
31 delay, is admissible, and is sufficiently material and credible that
32 it more likely than not would have changed the outcome of the
33 case.

34 (ii) For purposes of this section, “new evidence” means evidence
35 that has not previously been presented and heard at trial and has
36 been discovered after trial.

37 (D) A significant dispute has emerged or further developed in
38 the petitioner’s favor regarding expert medical, scientific, or
39 forensic testimony that was introduced at trial or a hearing and

1 that expert testimony more likely than not affected the outcome
2 of the case.

3 (i) For purposes of this section, the expert medical, scientific,
4 or forensic testimony includes the expert's conclusion or the
5 scientific, forensic, or medical facts upon which their opinion is
6 based.

7 (ii) For purposes of this section, the significant dispute may be
8 as to the reliability or validity of the diagnosis, technique, methods,
9 theories, research, or studies upon which a medical, scientific, or
10 forensic expert based their testimony.

11 (iii) Under this section, a significant dispute can be established
12 by credible expert testimony or declaration, or by peer reviewed
13 literature showing that experts in the relevant medical, scientific,
14 or forensic community, substantial in number or expertise, have
15 concluded that developments have occurred that undermine the
16 reliability or validity of the diagnosis, technique, methods, theories,
17 research, or studies upon which a medical, scientific, or forensic
18 expert based their testimony.

19 (iv) In assessing whether a dispute is significant, the court shall
20 give great weight to evidence that a consensus has developed in
21 the relevant medical, scientific, or forensic community undermining
22 the reliability or validity of the diagnosis, technique, methods,
23 theories, research, or studies upon which a medical, scientific, or
24 forensic expert based their testimony or that there is a lack of
25 consensus as to the reliability or validity of the diagnosis,
26 technique, methods, theories, research, or studies upon which a
27 medical, scientific, or forensic expert based their testimony.

28 (v) The significant dispute must have emerged or further
29 developed within the relevant medical, scientific, or forensic
30 community, which includes the scientific community and all fields
31 of scientific knowledge on which those fields or disciplines rely
32 and shall not be limited to practitioners or proponents of a
33 particular scientific or technical field or discipline.

34 (vi) If the petitioner makes a prima facie showing that they are
35 entitled to relief, the court shall issue an order to show cause why
36 relief shall not be granted. To obtain relief, all the elements of this
37 subparagraph must be established by a preponderance of the
38 evidence.

39 (2) For purposes of this subdivision, "false evidence" includes
40 opinions of experts that have either been repudiated by the expert

1 who originally provided the opinion at a hearing or trial or that
2 have been undermined by the state of scientific knowledge or later
3 scientific research or technological advances.

4 (3) Any allegation that the prosecution knew or should have
5 known of the false nature of the evidence is immaterial to the
6 prosecution of a writ of habeas corpus brought under subparagraph
7 (A) or (B) of paragraph (1).

8 (4) This subdivision does not create additional liabilities, beyond
9 those already recognized, for an expert who repudiates the original
10 opinion provided at a hearing or trial or whose opinion has been
11 undermined by scientific research, technological advancements,
12 or because of a reasonable dispute within the expert's relevant
13 scientific community as to the validity of the methods, theories,
14 research, or studies upon which the expert based their opinion.

15 (c) This section does not change the existing procedures for
16 habeas relief.

17 (d) This section does not limit the grounds for which a writ of
18 habeas corpus may be prosecuted or preclude the use of any other
19 remedies.

20 (e) Notwithstanding any other law, a writ of habeas corpus may
21 also be prosecuted after judgment has been entered based on
22 evidence that a criminal conviction or sentence was sought,
23 obtained, or imposed in violation of subdivision (a) of Section
24 745, if that section applies based on the date of judgment as
25 provided in subdivision (j) of Section 745. A petition raising a
26 claim of this nature for the first time, or on the basis of new
27 discovery provided by the state or other new evidence that could
28 not have been previously known by the petitioner with due
29 diligence, shall not be deemed a successive or abusive petition. If
30 the petitioner has a habeas corpus petition pending in state court,
31 but it has not yet been decided, the petitioner may amend the
32 existing petition with a claim that the petitioner's conviction or
33 sentence was sought, obtained, or imposed in violation of
34 subdivision (a) of Section 745. The petition shall state if the
35 petitioner requests appointment of counsel and the court shall
36 appoint counsel if the petitioner cannot afford counsel and either
37 the petition alleges facts that would establish a violation of
38 subdivision (a) of Section 745 or the State Public Defender requests
39 counsel be appointed. Newly appointed counsel may amend a
40 petition filed before their appointment. The court shall review a

1 petition raising a claim pursuant to Section 745 and shall determine
2 if the petitioner has made a prima facie showing of entitlement to
3 relief. If the petitioner makes a prima facie showing that the
4 petitioner is entitled to relief, the court shall issue an order to show
5 cause why relief shall not be granted and hold an evidentiary
6 hearing, unless the state declines to show cause. The defendant
7 may appear remotely, and the court may conduct the hearing
8 through the use of remote technology, unless counsel indicates
9 that the defendant's presence in court is needed. If the court
10 determines that the petitioner has not established a prima facie
11 showing of entitlement to relief, the court shall state the factual
12 and legal basis for its conclusion on the record or issue a written
13 order detailing the factual and legal basis for its conclusion.

14 (f) If the court holds an evidentiary hearing and the petitioner
15 is incarcerated in state prison, the petitioner may choose not to
16 appear for the hearing with a signed or oral waiver on record, or
17 they may appear remotely through the use of remote technology,
18 unless counsel indicates that the defendant's presence in court is
19 needed.

20 (g) For purposes of this section, if the district attorney in the
21 county of conviction or the Attorney General concedes or stipulates
22 to a factual or legal basis for habeas relief, there shall be a
23 presumption in favor of granting relief. This presumption may be
24 overcome only if the record before the court contradicts the
25 concession or stipulation or it would lead to the court issuing an
26 order contrary to law.

27 (h) (1) If after the court grants postconviction relief under this
28 section and the prosecuting agency elects to retry the petitioner,
29 the petitioner's postconviction counsel may be appointed as counsel
30 or cocounsel to represent the petitioner on the retrial if both of the
31 following requirements are met:

32 (A) The petitioner and postconviction counsel both agree for
33 postconviction counsel to be appointed.

34 (B) Postconviction counsel is qualified to handle trials.

35 (2) Counsel shall be paid under the applicable pay scale for
36 appointed counsel. Otherwise, the court shall appoint other
37 appropriate counsel.

38 SEC. 9. Section 2620 of the Penal Code is amended to read:

39 2620. (a) When it is necessary to have a person imprisoned in
40 the state prison brought before any court to be tried for a felony,

1 or for an examination before a grand jury or magistrate preliminary
2 to trial for a felony, or for the purpose of hearing a motion or other
3 proceeding, to vacate a judgment, an order for the prisoner's
4 temporary removal from prison, and for the prisoner's production
5 before the court, grand jury, or magistrate, must be made by the
6 superior court of the county in which action, motion, or
7 examination is pending or by a judge thereof. The order shall be
8 made only upon the affidavit of the district attorney or defense
9 attorney, stating the purpose for which that person is to be brought
10 before the court, grand jury or magistrate or upon the court's own
11 motion. The order shall be executed by the sheriff of the county
12 in which it shall be made, whose duty it shall be to bring the
13 prisoner before the proper court, grand jury or magistrate, to safely
14 keep the prisoner, and when the prisoner's presence is no longer
15 required to return the prisoner to the prison from whence the
16 prisoner was taken. The expense of executing such order shall be
17 a proper charge against, and shall be paid by, the county in which
18 the order shall be made.

19 (b) An order pursuant to subdivision (a) shall recite the purposes
20 for which that person is to be brought before the court, grand jury,
21 or magistrate, and shall be signed by the judge making the order
22 and sealed with the seal of the court. The order must be to the
23 following effect:

24 County of ____ (as the case may be).

25 The people of the State of California to the warden of ____:

26 An order having been made this day by me, that A.B. be
27 produced in the ____ court (or before the grand jury, as the case
28 may be) to be prosecuted or examined for the crime of ____, a
29 felony (or to have that motion heard), you are commanded to
30 deliver the prisoner into the custody of ____ for the purpose of
31 (recite purposes).

32 Dated this ____ day of ____, 20____.

33 (c) When a prisoner is removed from a state prison under this
34 section the prisoner shall remain in the constructive custody of the
35 warden thereof. During the prisoner's absence from the prison,
36 the prisoner may be ordered to appear in other felony proceedings
37 as a defendant or witness in the superior court of the county from
38 which the original order directing removal issued. A copy of the
39 written order directing the prisoner to appear before that court shall

1 be forwarded by the district attorney to the warden of the prison
2 having protective custody of the prisoner.

3 SEC. 10. Section 3058.65 of the Penal Code is amended to
4 read:

5 3058.65. (a) (1) Whenever any person confined in the state
6 prison is serving a term for the conviction of child abuse, pursuant
7 to Section 273a, 273ab, 273d, any sex offense specified as being
8 perpetrated against a minor, or an act of domestic violence, or as
9 ordered by a court, the Department of Corrections and
10 Rehabilitation, with respect to inmates sentenced pursuant to
11 subdivision (b) of Section 1168 or pursuant to Section 1170, shall
12 notify the following parties that the person is scheduled to be
13 released on parole, or rereleased following a period of confinement
14 pursuant to a parole revocation without a new commitment, as
15 specified in subdivision (b):

16 (A) The immediate family of the parolee who requests
17 notification and provides the department with a current address.

18 (B) A county child welfare services agency that requests
19 notification pursuant to Section 16507 of the Welfare and
20 Institutions Code.

21 (2) For the purposes of this paragraph, “immediate family of
22 the parolee” means the parents, siblings, and spouse of the parolee.

23 (b) (1) The notification shall be made by mail at least 60 days
24 prior to the scheduled release date, except as provided in paragraph
25 (2). In all cases, the notification shall include the name of the
26 person who is scheduled to be released, the terms of that person’s
27 parole, whether or not that person is required to register with local
28 law enforcement, and the community in which that person will
29 reside. The notification shall specify the office within the
30 Department of Corrections and Rehabilitation that has the authority
31 to make the final determination and adjustments regarding parole
32 location decisions.

33 (2) When notification cannot be provided within the 60 days
34 due to the unanticipated release date change of an inmate as a result
35 of an order from the court, an action by the Board of Parole
36 Hearings, the granting of an administrative appeal, or a finding of
37 not guilty or dismissal of a disciplinary action, that affects the
38 sentence of the inmate, or due to a modification of the department’s
39 decision regarding the community into which the person is
40 scheduled to be released pursuant to paragraph (3), the department

1 shall provide notification to the parties and agencies specified in
2 subdivision (a) as soon as practicable, but in no case less than 24
3 hours after the final decision is made regarding the location where
4 the parolee will be released.

5 (3) Those agencies receiving the notice referred to in this
6 subdivision may provide written comment to the board or
7 department regarding the impending release. Agencies that choose
8 to provide written comments shall respond within 30 days prior
9 to the inmate's scheduled release, unless an agency received less
10 than 60 days' notice of the impending release, in which case the
11 agency shall respond as soon as practicable prior to the scheduled
12 release. Those comments shall be considered by the board or
13 department which may, based on those comments, modify its
14 decision regarding the community in which the person is scheduled
15 to be released. The board or department shall respond in writing
16 not less than 15 days prior to the scheduled release with a final
17 determination as to whether to adjust the parole location and
18 documenting the basis for its decision, unless the department
19 received comments less than 30 days prior to the impending
20 release, in which case the department shall respond as soon as
21 practicable prior to the scheduled release. The comments shall
22 become a part of the inmate's file.

23 (c) In no case shall the notice required by this section be later
24 than the day the person is released on parole.

25 ~~SEC. 11. Section 5003 of the Penal Code is amended to read:~~
26 ~~5003. The department has jurisdiction over all of the following~~
27 ~~prisons and institutions:~~

- 28 ~~(a) The San Quentin Rehabilitation Center.~~
- 29 ~~(b) The California State Prison at Folsom.~~
- 30 ~~(c) The California Institution for Men.~~
- 31 ~~(d) The California Institution for Women.~~
- 32 ~~(e) The Deuel Vocational Institution.~~
- 33 ~~(f) The California Medical Facility.~~
- 34 ~~(g) The Correctional Training Facility.~~
- 35 ~~(h) The California Men's Colony.~~
- 36 ~~(i) The California Correctional Institution at Tehachapi.~~
- 37 ~~(j) The California Rehabilitation Center.~~
- 38 ~~(k) The California Correctional Center at Susanville.~~
- 39 ~~(l) The Sierra Correctional Center.~~

1 ~~(m) The Richard J. Donovan Correctional Facility at Rock~~
2 ~~Mountain.~~

3 ~~(n) Mule Creek State Prison.~~

4 ~~(o) Northern California Women's Facility.~~

5 ~~(p) Pelican Bay State Prison.~~

6 ~~(q) Avenal State Prison.~~

7 ~~(r) California State Prison—King's County at Corcoran.~~

8 ~~(s) Chuckawalla Valley State Prison.~~

9 ~~(t) Other institutions and prison facilities that the Department~~
10 ~~of Corrections and Rehabilitation or the Secretary of the~~
11 ~~Department of Corrections and Rehabilitation may be authorized~~
12 ~~by law to establish, including, but not limited to, prisons in the~~
13 ~~Counties of Imperial, Kern, Los Angeles, and Madera.~~

14 ~~SEC. 12.~~

15 *SEC. 11.* Section 11226 of the Penal Code is amended to read:

16 11226. (a) If there is reason to believe that a nuisance, as
17 defined in this article, is kept, maintained, or is in existence in any
18 county, the district attorney or county counsel, in the name of the
19 people of the State of California, or the city attorney of an
20 incorporated city or any city and county may, or any citizen of the
21 state resident within the county in their own name may, maintain
22 an action in equity to abate and prevent the nuisance and to
23 perpetually enjoin the person conducting or maintaining it, and
24 the owner, lessee, or agent of the building or place, in or upon
25 which the nuisance exists, from directly or indirectly maintaining
26 or permitting it.

27 (b) The complaint in the action shall be verified unless filed by
28 the district attorney, county counsel, or the city attorney.

29 ~~SEC. 13.~~

30 *SEC. 12.* Section 13511.5 of the Penal Code is amended to
31 read:

32 13511.5. Each applicant for admission to a basic course of
33 training certified by the Commission on Peace Officer Standards
34 and Training that includes the carrying and use of firearms, as
35 prescribed by subdivision (a) of Section 832 and subdivision (a)
36 of Section 832.3, who is not sponsored by a local or other law
37 enforcement agency, or is not a peace officer employed by a state
38 or local agency, department, or district, shall be required to submit
39 written certification from the Department of Justice pursuant to
40 Sections 11122, 11123, and 11124 that the applicant is eligible to

1 possess, receive, own, and purchase a firearm pursuant to state
2 and federal law.

3 ~~SEC. 14.~~

4 *SEC. 13.* Section 13519.6 of the Penal Code is amended to
5 read:

6 13519.6. (a) (1) The commission, in consultation with
7 subject-matter experts, including, but not limited to, law
8 enforcement agencies, civil rights groups, and academic experts,
9 and the Department of Justice, shall develop guidelines and a
10 course of instruction and training for law enforcement officers
11 who are employed as peace officers, or who are not yet employed
12 as a peace officer but are enrolled in a training academy for law
13 enforcement officers, addressing hate crimes. “Hate crimes,” for
14 purposes of this section, has the same meaning as in Section
15 422.55.

16 (2) The commission shall consult with the subject-matter experts
17 in paragraph (1) if the guidelines or course of instruction are
18 updated.

19 (3) The guidelines and course of instruction developed pursuant
20 to this section are not regulations as that term is used in the
21 Administrative Procedure Act (Chapter 3.5 commencing with
22 Section 11340 of Part 1 of Division 3 of the Government Code).
23 This paragraph is declaratory of existing law.

24 (b) The course shall make maximum use of audio and video
25 communication and other simulation methods and shall include
26 instruction in each of the following:

27 (1) Indicators of hate crimes.

28 (2) The impact of these crimes on the victim, the victim’s family,
29 and the community, and the assistance and compensation available
30 to victims.

31 (3) Knowledge of the laws dealing with hate crimes and the
32 legal rights of, and the remedies available to, victims of hate
33 crimes.

34 (4) Law enforcement procedures, reporting, and documentation
35 of hate crimes.

36 (5) Techniques and methods to handle incidents of hate crimes
37 in a noncombative manner.

38 (6) Multimission criminal extremism, which means the nexus
39 of certain hate crimes, antigovernment extremist crimes,

1 anti-reproductive-rights crimes, and crimes committed in whole
2 or in part because of the victims' actual or perceived homelessness.

3 (7) The special problems inherent in some categories of hate
4 crimes, including gender-bias crimes, disability-bias crimes,
5 including those committed against homeless persons with
6 disabilities, anti-immigrant crimes, and anti-Arab and anti-Islamic
7 crimes, and techniques and methods to handle these special
8 problems.

9 (8) Preparation for, and response to, possible future anti-Arab,
10 anti-Middle Eastern, and anti-Islamic hate crimewaves, and any
11 other future hate crime waves that the Attorney General determines
12 are likely.

13 (c) The guidelines developed by the commission shall
14 incorporate the procedures and techniques specified in subdivision
15 (b) and shall include the model hate crimes policy framework for
16 use by law enforcement agencies in adopting a hate crimes policy
17 pursuant to Section 422.87. The elements of the model hate crimes
18 policy framework shall include, but not be limited to, all of the
19 following:

20 (1) A message from the law enforcement agency's chief
21 executive officer to the agency's officers and staff concerning the
22 importance of hate crime laws and the agency's commitment to
23 enforcement.

24 (2) The definition of "hate crime" in Section 422.55.

25 (3) References to hate crime statutes including Section 422.6.

26 (4) A title-by-title specific protocol that agency personnel are
27 required to follow, including, but not limited to, the following:

28 (A) Preventing and preparing for likely hate crimes by, among
29 other things, establishing contact with persons and communities
30 who are likely targets, and forming and cooperating with
31 community hate crime prevention and response networks.

32 (B) Responding to reports of hate crimes, including reports of
33 hate crimes committed under the color of authority.

34 (C) Accessing assistance, by, among other things, activating
35 the Department of Justice hate crime rapid response protocol when
36 necessary.

37 (D) Providing victim assistance and followup, including
38 community followup.

39 (E) Reporting.

1 (5) A list of all requirements that Section 422.87 or any other
2 law mandates a law enforcement agency to include in its hate crime
3 policy.

4 (d) (1) The course of training leading to the basic certificate
5 issued by the commission shall include the course of instruction
6 described in subdivision (a).

7 (2) Every state law enforcement and correctional agency, and
8 every local law enforcement and correctional agency to the extent
9 that this requirement does not create a state-mandated local
10 program cost, shall provide its peace officers with the basic course
11 of instruction as revised pursuant to the act that amends this section
12 in the 2003–04 session of the Legislature, beginning with officers
13 who have not previously received the training. Correctional
14 agencies shall adapt the course as necessary.

15 (e) (1) The commission shall, subject to an appropriation of
16 funds for this purpose in the annual Budget Act or other statute,
17 for any basic course, incorporate the November 2017 video course
18 developed by the commission entitled “Hate Crimes: Identification
19 and Investigation,” or any successor video, into the basic course
20 curriculum.

21 (2) The commission shall make the video course described in
22 paragraph (1) available to stream via the learning portal.

23 (3) Each peace officer shall, within one year of the commission
24 making the course available to stream via the learning portal, be
25 required to complete the November 2017 video facilitated course
26 developed by the commission entitled “Hate Crimes: Identification
27 and Investigation,” the course identified in paragraph (4), or any
28 other commission-certified hate crimes course via the learning
29 portal or in-person instruction.

30 (4) The commission shall develop and periodically update an
31 interactive course of instruction and training for in-service peace
32 officers on the topic of hate crimes and make the course available
33 via the learning portal. The course shall cover the fundamentals
34 of hate crime law and preliminary investigation of hate crime
35 incidents, and shall include updates on recent changes in the law,
36 hate crime trends, and best enforcement practices.

37 (5) The commission shall require the course described in
38 paragraph (3) to be taken by in-service peace officers every six
39 years.

1 (f) As used in this section, “peace officer” means any person
2 designated as a peace officer by Section 830.1 or 830.2.

3 ~~SEC. 15.~~

4 *SEC. 14.* Section 11500 of the Vehicle Code is amended to
5 read:

6 11500. (a) (1) It shall be unlawful for any person to act as an
7 automobile dismantler without first having an established place
8 of business that meets the requirements set forth in Section 11514
9 and without first having procured a license or temporary permit
10 issued by the department, or when such license or temporary permit
11 has been canceled, suspended, revoked, invalidated, expired, or
12 the terms and conditions of an agreement effected pursuant to
13 Section 11509.1 have not been fulfilled. A violation of this
14 subdivision is a misdemeanor, and is subject to the penalties
15 described in paragraph (2).

16 (2) Notwithstanding Section 42002, a person convicted of a first
17 violation of subdivision (a) for any reason other than described in
18 paragraph (3) shall be punished by a fine of not less than two
19 hundred fifty dollars (\$250). A person convicted of a second
20 separate violation of subdivision (a) for this reason shall be
21 punished by a fine of not less than five hundred dollars (\$500). A
22 person convicted of a third or subsequent violation of subdivision
23 (a) for this reason shall be punished by a fine of not less than one
24 thousand dollars (\$1,000).

25 (3) A person who violates subdivision (a) due to possessing
26 nine or more catalytic converters that have been cut from a vehicle
27 pursuant to Section 220 is, for a first violation, guilty of an
28 infraction punishable by a fine of not more than one hundred
29 dollars (\$100). A person convicted of a second separate violation
30 of subdivision (a) for this reason is guilty of a misdemeanor
31 punishable by a fine of not less than two hundred fifty dollars
32 (\$250). A person convicted of a third separate violation of
33 subdivision (a) for this reason is guilty of a misdemeanor
34 punishable by a fine of not less than five hundred dollars (\$500).
35 A person convicted of a fourth or subsequent violation of
36 subdivision (a) for this reason is guilty of a misdemeanor and shall
37 be punished by a fine of not less than one thousand dollars
38 (\$1,000).

39 (b) (1) A building or place used for the purpose of automobile
40 dismantling in violation of subdivision (a) is a public nuisance

1 subject to being enjoined, abated, and prevented, and for which
2 damages may be recovered by any public body or officer.

3 (2) As used in this section, “public body” means any state
4 agency, county, city, district, or any other political subdivision of
5 the state.

6 *SEC. 15. Any section of any act enacted by the Legislature*
7 *during the 2024 calendar year that takes effect on or before*
8 *January 1, 2025, and that amends, amends and renumbers, adds,*
9 *repeals and adds, or repeals a section that is amended, amended*
10 *and renumbered, added, repealed and added, or repealed by this*
11 *act, shall prevail over this act, whether the act is enacted before,*
12 *or subsequent to, the enactment of this act.*